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A survey taken by the New York State Department of Education revealed that the schools of Buffalo were highly segregated. Of the 19 schools that contained more than 30% Negroes and Puerto Ricans, 14 had over 90%. There was no directive from the State Department of Education as to what, if anything, ought to be done about these disclosures.

The local NAACP presented a statement to the local board of education discussing school segregation cases, summarizing the State survey, and stating that the de facto segregation of the Buffalo schools was in violation of the spirit of those cases.

The superintendent of schools felt that school segregation is not a result of school policy but of housing patterns, and that school zone lines were not used to establish segregation.

Questions were raised as to whether certain areas of optional school choice in zones between schools were a deliberate attempt at school segregation. There has been discussion among community leaders concerning the large concentration of Negro teachers and temporary teachers in Negro schools. Some Negro students seem to have more educational advantages, through special programs, than students outside the Negro housing area, but the large proportion appears to be getting less.

The Buffalo situation is typical of the situations faced in many northern and western cities.

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Public Schools

Cities in the North and West

1963

BUFFALO

Staff Report Submitted To

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

and Authorized for Publication

Bennett O. Stalvey

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CIVIL RIGHTS U. S. A.

PUBLIC SCHOOLS

CITIES IN THE NORTH AND WEST

1963

BUFFALO

By George J. Alexander

Staff Report Submitted To

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Preface

School segregation in any northern city is a complex problem not explained by generalizations. Buffalo is no exception. It would have been impossible to prepare this report in the allotted time without the generous cooperation of a large number of people who are intimately familiar with the Buffalo schools. A list of all the persons who were helpful would be lengthy. Special mention will be made of a few. The Superintendent of Schools, Dr. Joseph Manch, opened the facilities of his office and gave generously of his time. All the associate superintendents assisted, at one point or another, by preparing essential factual material. Dr. Lillian A. Wilcox, Associate Superintendent for School-Community Coordination, became the focal point for gathering information. Her store of ready information and insight into problems were invaluable. Her willingness to participate in this study both during and after office hours undoubtedly added more to the report than the work of any other single individual.

Raphael DuBard, president of the Buffalo Branch of the National Association for the Advancement of Colored People (NAACP) contributed not only his own valuable insight but also arranged for meetings with officers and other members of his organization. The views of Claude Clapp, a school principal, were particularly enlightening. The Board of Education was extremely helpful. Three of its members, Samuel C. Markel (the president), Mrs. Alfreda W. Slominski, and Dr. Lydia Wright discussed their viewpoints at length with the author.

These people are only a few of the many who aided the author in various ways. To them and to the others go his thanks. He alone, however, bears the responsibility for the conclusions drawn.

March 1, 1963

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Introduction: Buffalo--City of Good Neighbors

Buffalo, New York, is the second largest city[1] in the second most populous State in the country.[2] It has, in some respects, the largest problem of school segregation in the State.[3]

Buffalo prides itself on being the "City of Good Neighbors." If the bromide that "good fences make good neighbors" has any validity, then Buffalo indeed is correctly described. Figurative fences contain homes of the Negro population within well-defined geographic limits; school zone boundary lines are equally firm and effective in restricting school attendance.[4]

The Negro population of Buffalo has had recent explosive growth. In the period 1950 to 1960 it rose from a little over 6 percent of the city's population to more than twice that figure.[5] In 1950, much of the Negro population was concentrated in what is called the Ellicott district which still remains an area of heavy Negro concentration. With the advent of redevelopment in the Ellicott area, a substantial migration occurred which resulted in another heavy concentration in the Cold Springs area.[6] From these two districts radiate the threads of Negro population. In most places, a reasonably well-defined geographic boundary limits invasion into white residential areas.

The focus of this report is segregation in public schools. Therefore, little more will be said of the housing problem. A study has not been undertaken to determine whether real estate practices or the acquiescence of the Negro community maintain the existing fences. For purposes of school segregation the cause of Negro residential confinement seems to be immaterial. It is clear that no governmental authority established the boundaries, although opinion as to the State's action to counter housing segregation varies.

It seems clear that Negro families have not bought homes outside of the accepted Negro residential areas and that the State's 1961 antidiscrimination law will not materially help those who want to do so within the city limits.[7]

In seeking background for this study the author interviewed a Negro couple, both of whom are physicians and prominent civic leaders. They told the author, they had made unsuccessful attempts to buy a home in several areas of the city. Although in disagreement with the attitudes that maintain it, the couple now appears to be resigned to the Buffalo housing pattern.

Negro leaders assert that the Negro is deprived of his right to live where he chooses, but few seem to be actively

attempting to overcome discrimination in housing. One gets the impression that Buffalo Negroes are, in this respect, quite willing to be good neighbors.

The attitudes and competence of the people involved in public education in Buffalo make it easy for Negroes to be good neighbors. No person in authority either in the superintendent's office or on the Board of Education has publicly taken an anti-Negro stand, which is not surprising in a northern city. None is even suspected of racial bias, at least by any of the people interviewed for this report. In view of the extent of racial segregation in the schools, this is more surprising. A brief review of the background of the people involved may, however, make it comprehensible.

The Superintendent of Schools, Dr. Joseph Manch, quite aside from his excellent reputation as an educator and administrator, has a substantial reputation as a community leader opposed to unequal treatment of minority groups. He is vice-president of the Buffalo Urban League, vice-chairman of the western New York regional advisory board of the Anti-Defamation League of B'nai B'rith, and a member of the local branch of the NAACP. He appears to be active in all these capacities. His viewpoint on the question of equality in education is well-known to the people in the school system and to the public at large.[8] Under his direction a considerable effort is directed toward promotion of educational equality.[9] A substantial number of publications from his office advocate brotherhood and identify equality of educational opportunity as a primary goal of Buffalo schools.[10] He is a recipient of citations for his good work by the Freedoms Foundation,[11] the Buffalo Urban League,[12] the Buffalo Evening News,[13] and the National Conference of Christians and Jews.[14] All of the leaders in the Negro community who were interviewed, declared him to be a man of good will dedicated to the principle of equality. Quite a few were willing to subscribe, in addition, to the broader proposition that Dr. Manch was doing all that could be done under the circumstances.

Dr. Lillian A. Wilcox, Associate Superintendent for School-Community Coordination, handles most problems related to equal opportunity. She is an active participant in community affairs and chairman of the Council on Community Understanding. Her work in the area of inter-group relations has also been recognized by an award.[15]

While these two members of the department of education have been more involved with the public than the others, none of the members of the office is in ill-repute with leaders in the equality movement.

The leadership in promoting Negro rights with respect to school integration in Buffalo seems to have been assumed almost entirely by the local branch of the NAACP. The president of that branch at the time of this study was Raphael DuBard. Mr. DuBard is, of course, firmly dedicated

to equality of educational opportunity for Negroes. He and other members of the branch have been compiling information on segregation in public schools and have engaged in discussion of the problem with members of the superintendent's staff. He appears, however, to be a man who believes in moderation.

The Board of Education, which is ultimately responsible for most of the major decisions which might reduce school segregation seems to be highly regarded as a group. Criticism by Negro leaders leveled at the slow pace of progress is impersonal for the most part. The members of the board appear to share in the good relations that exist between the NAACP and the superintendent's office. Indeed a few members of the board are looked to for leadership in school integration.

Mrs. Alfreda W. Slominski and Dr. Lydia T. Wright, the newest additions to the Board of Education, have been actively interested in investigating the present status of education in Buffalo with an eye to racial problems. The general feeling that they will make a significant contribution toward the solution of existing problems may be owing to their recent appointments. The other members of the board, by their longevity, do not give promise of speedy decisive action on their part to end racial segregation. If interest and activity are any indication, the confidence in Mrs. Slominski and Dr. Wright is well placed; there has not yet been an opportunity for them to initiate decisive action.

Everyone concerned with the problem of school integration in Buffalo agrees that a problem exists and that it should be solved.

The superintendent of schools, on the one hand, recognizes the desirability of racial integration in schools and says that it is unfortunate that more integration has not been achieved. He goes further and says that he has actively sought to achieve integration in the past and that he intends to continue to do so. He expresses annoyance at the prodding by the NAACP and others, not on the ground that the conditions complained of do not exist, but on the ground that he knows the facts and will solve the problems in due course without pressure.

The president of the board agrees in essence with the superintendent's position. He says the board is actively studying the problem of school integration and the means of eliminating the inequalities that exist. In his opinion, the board has acknowledged that the problem exists and that it is serious.

On the other hand, Mr. DuBard, while pressing for speedier action, expressed in an interview his feeling for the importance of moderation. His immediate objective is a statement by the board recognizing integration in the schools as a goal and the desirability of eliminating the present

de facto segregation. Unlike a number of other northern cities there has been no lawsuit filed in Buffalo,[16] and to date, no attempt has been made to complain to State educational authorities or to take other positive action seeking relief.[17] No one interviewed denied the possibility of a suit to end de facto segregation in Buffalo being filed later, but no one seemed prepared to do so now.

The Buffalo Public School System

The Buffalo school system is presently comprised of 80 elementary schools: some with grades kindergarten through 6th grade (k-6) and others with kindergarten through 8th grade (k-8); 2 junior high schools which include grades 7 through 9; 6 center schools accommodating grades 7 and 8 only; 7 senior academic high schools, all of which now have grades 9 through 12; and 7 vocational or technical high schools, also grades 9 through 12.

Formerly, the system was organized entirely on a two-level basis: elementary schools with grades k-8, and high schools with grades 9-12. The scheme of organization is now in a transitional state between a two- and a three-level system. Two junior high schools have been built, one is under construction and one old school is being refurbished to serve as a junior high school. The existing junior high schools accommodate only a part of the enrollment in grades 7, 8, and 9. As a temporary measure, "center schools," enrolling two of the three junior high grades have been created in 6 elementary schools. One of these schools serves only grades 7 and 8; the other five have these grades in addition to grades k-6. The "center districts" from which grades 7 and 8 are drawn are larger than the school districts for grades k-6. These center schools will be replaced by junior high schools when the transition is completed.

Elementary schools in areas now served by either junior high or center schools have become k-6 schools; those in other parts of the city still are k-8 schools. High schools will continue to include grade 9 until all of this grade can be served by junior high schools.

PUPIL ASSIGNMENT

The basic criterion for pupil assignment in Buffalo, subject to a few exceptions discussed later, is residence. All public schools, except vocational and technical high schools and special schools for the gifted or handicapped, have established attendance areas. A pupil living within the school district boundary lines of a school serving his grade level must attend that school or bring himself within a rule granting an exception. Maps 1, 2, and 3 following the appendices locate the schools and show the attendance area boundary lines for elementary, junior, and senior academic high schools, respectively. Each map is also shaded to show the percentage of Negro residents in particular areas. Map 4 shows the census tracts in the city that were more than 5 percent Negro in 1960 and the corresponding percentage for 1950.

Map 1, Elementary School Districts, shows only the districts discussed in the text and the optional attendance area within these districts containing schools Nos. 31 and 40 and two optional areas in district 17. Arrows from the optional area point to the schools for which choice is granted.

Map 2, Junior High School Districts, locates but does not show boundary lines for Woodlawn Junior High School now under construction. The bourdary lines shown for Clinton Junior High School are those presently fixed for school 87, the center school which is to become Clinton Junior High School.

Elementary Schools. At the elementary school level there are three exceptions to the rule requiring attendance in the school district of residence: (1) residence in an optional area, (2) qualification for a special program not available in the residential district, and (3) special hardship.

Residents of eight optional areas have a choice of attending one of two or more schools. The effect these options may have on racial concentrations in the schools is discussed hereafter.

Pupils of high IQ are selected for participation in an accelerated academic program for the gifted, which may entail attendance at an out-of-district school since there are only a few such programs in the city.

Physically handicapped or mentally retarded children also attend special schools designed to meet their needs. Again attendance out-of-district is to be expected.

Students are allowed to attend an elementary school outside their school district because of pressing personal reasons but few exceptions to the general rule of assignment to the school of the zone of residence are granted on this ground.

With these few exceptions, the elementary school child in the public school system attends his neighborhood school. The neighborhoods themselves (see map 1) are not uniform in size or shape. In each case they bear some relationship to the capacity of the school and often also to natural geographic boundaries. A large number of elementary school district boundary lines coincide with housing fences containing the Negro community. The school district boundary lines may have supported the maintenance of housing fences, but no substantive support for such a hypothesis was found. Certainly white parents concerned with their children's education are apt to check on the school district before selecting a new residence. As already mentioned, Negroes in Buffalo have no real choice as to where they will live.

Main Street appears to be a housing fence for the Negro residential area; it is also the western boundary of elementary school districts 48 and 15 and of one optional area in district 17. It is, of course, the barrier and eastern

boundary of the districts to the west, 16 and 36. Humboldt Parkway is the eastern boundary of a 50 to 80 percent Negro residential area and also of school districts 74, 93, 53, and 39. East Delavan Avenue is still a housing and school district boundary in the northern part of the city-- districts 54 and 74-- but in the decade 1950-60, the Negro residential area crossed East Delavan and penetrated into parts of districts 23 and 62. In the southern part of the city the Buffalo River seems to be the northern boundary for a sparse Negro population, as well as for school district 28. Since most of these barriers are only streets, the coincidence with school district boundary lines looks artificial.

Secondary Schools. The assignment to center and junior high schools is accomplished essentially in the same manner as in the case of elementary schools. On the whole, the rule remains that pupils attend schools in the area of their residence. Above the elementary level, however, there is an additional reason for allowing attendance out-of-district. Transfers are allowed to enable students to take advantage of special programs not available in the home district. For example, Hebrew is taught in only two high schools; Polish is taught in one. This holds true for other elective subjects. Students desiring to take such courses may, for the academic year in which they are given, transfer to the school offering them. Upon completion of a subject they must return to the home school. Some special courses, while not numerous, permit some high school students, regardless of ethnic identification, to transfer to other high schools. Statistics identifying the number of students attending school-out-of-district were not available.

The vocational and technical schools differ so materially in the range of programs offered that all are open to residents from any part of the city. This is another option open to secondary school students which allows them to attend a school outside the school district in which they live.

General Policies. If a student qualifies to attend a school outside the district in which he lives, for any of the reasons mentioned above, he appears to have some choice as to his new school. If, for example, a student is eligible for a special progress class, he may be allowed to take an unfilled place in a special progress program in a school farther from his home than the closest school offering the program. School authorities say that such selection is allowed because parents must provide the transportation, if it is required.

Organization within individual schools is left to the discretion of the principal to a large extent. Consequently, some schools operate on homogeneous intelligence or performance groupings and others do not.

Since school assignments are based on the neighborhood concept and most students are required to go to a nearby

school, the city provides transportation only for handicapped children. Consequently, students electing vocational programs across the city from their residence are required to arrange their own transportation. The same holds true for pupils attending special progress classes and for those electing special programs in other schools.

For most students in Buffalo, school boundaries are educational boundaries which they may not pass. For the most part these boundaries do not fluctuate from year to year. Students living in a given area have attended the same school over long periods of time. When changes have had to be made, there has always been a difficult reappraisal of assignment policy. The result has been a tendency to maintain previously established lines. However, since Buffalo is in a state of transition from the elementary and high school organization of schools to the elementary, junior, and senior high school system, new lines have had to be drawn and more will have to be set in the near future. The decisions made on the location and boundary lines for the new junior high schools will have a significant effect on the racial composition of schools. One thing is clear under the administration's present plans, the assignment system will not be changed. Students will be required to attend school in the junior high school district of their residence.

A casual appraisal of housing segregation in Buffalo makes it clear that a neighborhood school policy coupled with compulsory attendance in zone of residence inevitably leads to segregated schools. A perfunctory examination of the Buffalo schools shows that the expected has occurred. No one acquainted with the city and the school assignment policy should have been surprised by official figures indicating a high proportion of <u>de facto</u> segregated schools. Nonetheless, the report by the State Commissioner of Education seems to have shocked both officials and citizens concerned with school desegregation in the city.

The Allen Report

A characteristic of the problems of desegregation in cities of the North and West is that they begin where those in the South now end. In the South, as other reports to the Commission have indicated, Negro leaders still seek to overturn State policy of pupil assignment predicated on the separate but equal doctrine of Plessy v. Ferguson.[18] They seek pupil assignment to the nearest school without regard to race. In most northern cities school segregation is not the result of State law or policy. However questionable the motives of the individual school boards may be, however high the actual segregation in the schools, usually State law has not taken an active role in bringing it about.

The question in the North today is whether a State (or a school board representing its power) may be required to eliminate segregation in public schools, where State law or policy did not bring about this condition. A related question is the extent to which the State (or a school board) may or should use racial factors in school assignments to achieve integration.

New York was the first State to recognize officially the inequality of de facto segregated schools. In a policy statement adopted by the New York Board of Regents in January 1960, its position is clearly stated:[19]

> Modern psychological knowledge indicates that schools enrolling students largely of homogeneous ethnic origin may damage the personality of minority-group children. Such schools decrease their motivation and thus impair the ability to learn. Public education in such a setting is socially unrealistic, blocks the attainment of the goals of democratic education, and is wasteful of manpower and talent whether this situation occurs by law or by fact.

Six months later the New York Commissioner of Education filed a memorandum with the Board of Regents entitled "Goals and Plans for Education in New York State." The attainment of the goal of equal educational opportunity, the commissioner told the board, is limited by many conditions.[20]

> One of these conditions is the existence of segregated and nonintegrated schools. Studies have indicated that minority-group children in such schools, especially Negro children, are educationally disadvantaged. Thousands more are educationally handicapped by the effects of low socioeconomic conditions and detrimental home backgrounds.

These two documents committed the State to action to bring about a maximum degree of racial and ethnic integration in the schools. In October 1961, James E. Allen, Commissioner of Education for the State of New York, announced in a meeting of New York school superintendents at Saranac Lake that the State Department of Education would conduct a racial census in the schools.[21] It was the first State to take this action which was first recommended by the U.S. Commission on Civil Rights in 1959.[22] While the results of the report are of most immediate concern to this study, several other aspects of the census will be mentioned.

In the first place, for a survey of such explosive potential, it was remarkably well accomplished, at least in Buffalo. Considerable thought had apparently been given to the manner in which the survey ought to be made. Specific recommendation made as guide lines for superintendents were designed to soften the impact upon the community. The superintendents were cautioned to involve the smallest number of people consistent with a complete and accurate report. Census personnel were specifically interdicted from making direct inquiry of pupils or parents as to race or ancestry. The commissioner recommended the use of the "social definition" used by the Census Bureau until 1960. If the community considered the student a Negro, for the purposes of the study, he was a Negro; if he was white to the community, he was white to the survey. Finally, the census takers and administrators were prohibited from maintaining any permanent, individual records of the information solicited; classroom and school totals alone were to be submitted.[23]

The study seems to have been conducted with little difficulty. It did not generate any extreme comment either by school officials or by the Negro leaders in Buffalo. The census completed, the reports were made public in the latter part of 1962. It should be noted that the census was taken only of the elementary grades 1-6 leaving the question of the ethnic composition of school populations in the center schools, and in the junior, vocational, technical, and academic high schools still a matter of conjecture. Nonetheless, in Buffalo the geographic assignment policy leads to conclusions with respect to these schools as well.

The elementary school population of the city was found to be about one-third Negro and Puerto Rican. Eighty-eight percent of these children attended schools in which the racial composition was 60 percent or more Negro and Puerto Rican and over half of these attended schools which were in the 90 to 100 percent group. Furthermore, Buffalo was the only city in the study which had a large number of schools in the 90 to 100 percent category. In all cities surveyed, the racial imbalance of schools tended to spread from 30 to 100 percent. In Buffalo, of the 19 schools that had more than 30 percent Negroes and Puerto Ricans, 14 had over 90 percent. There were 3 more schools in the 90 to 100 percent Negro and Puerto Rican category in the city of Buffalo than there were in the rest of the State combined, excluding

New York City.[24] In fact, Buffalo has practically the same proportion of total schools with a Negro and Puerto Rican enrollment in excess of 90 percent as New York City has; but it has a much smaller proportion of integrated schools and a much higher proportion of schools 90 percent or more white in enrollment.[25]

There was no directive from the State Department of Education as to what, if anything, ought to be done about these disclosures in the census. In the absence of State leadership in the matter, Buffalo has had to grope for its own solutions.

The superintendent of schools and members of the Board of Education have officially refrained from comment. They have said that they are studying the report. The NAACP says that the report merely substantiates information which they were in the process of collecting, and that it indicates a need for action on the part of the school authorities.

There appears to be general resentment over the publication of the report without suggestions for solutions. The members of the superintendent's staff who were interviewed seem to feel that they should have had time to study the report and to take action to ameliorate the situation revealed before it was released to the public. The Negro leadership seems disappointed by the publication of the report which imposed no sanction and made no recommendation for corrective action. The racial composition of the schools could not have changed materially in the last few years, but the publication of the statistics was a startling confrontation with the facts to all interested leaders. The figures were an affront to the moderate good neighbor policy which has prevailed in Buffalo, although it seems doubtful that they seriously threaten its future existence.

School Segregation Criticized

The study on which this report is based was started shortly after the Allen Report was made public. Since the primary attack on school segregation in Buffalo had been made by the NAACP, a meeting was arranged with the officers and members of the local organization and non-members interested in the problem.[26] Two such sessions seemed to exhaust the number of people willing to come forward and discuss the problem.

The number of NAACP members interviewed was comparatively small but the information received from them was similar to that obtained from persons outside the organization.

Mr. DuBard, president of the local NAACP branch, point out that he recognized the difficult problem which the school authorities faced with respect to integration in the schools. He said that the problem had concerned him over a long period of time and that the branch had undertaken a study to gather information to support his position that education of Negroes in Buffalo was inferior to the education provided for other students in the city. Since the information supplied by the school authorities was inconclusive, various members of the branch had undertaken a study of the qualifications of teachers in predominantly Negro schools and of the assignment of Negro teachers. But they had little in terms of concrete information.

A concensus of those attending the meeting appeared to be that Dr. Manch was sincere in his desire to assist in obtaining better integration of the schools, although the extent to which he was free to act, and would do so, was considered speculative.

A number of the NAACP members present voiced opinions about particular schools and particular problems in the schools. There was considerable agreement that the problems mentioned existed in all Negro schools with which those present were acquainted. There was a well-defined sense of what was wrong even if there was no objective information to support the feelings. When particular individual examples were cited, almost invariably the others present agreed that they were typical.

One person told of his wife's impressions of teachers in the colored schools based upon her experience as a temporary teacher in several. She thought that the teachers, especially the temporary teachers, in predominantly Negro schools were inferior to those who taught at white schools. To the extent that the speaker had met her colleagues, he agreed. He identified several teachers and several schools

and the others agreed as to the schools although most did not know the specific teachers.

As the discussion on this problem continued (almost entirely in anecdotes) this much emerged: The consensus was that the professional qualifications of teachers in predominantly Negro schools compared unfavorably with their colleagues in white schools. This was believed to be true not only of the professional education of the teachers but also of the quality of their teaching. There was agreement that too many of the teachers in the predominantly Negro schools were temporaries. In part this status was thought to be a reflection of their lack of professional qualification. It was also suspected that temporary teachers, irrespective of their individual merit, were less likely to identify with the schools in which they taught and less likely to have professional aspirations. Many thought that temporary teachers spent as little time as possible at school, preferring other jobs or interests.

A number of illustrations were given of overcrowded classrooms which the speakers asserted were the rule in Negro schools rather than the exception. Overcrowding was attacked from two viewpoints. First, it was said that classes were too large to be educationally effective. Secondly, classes were said to be too large for the rooms in which they were housed. In both cases, the conclusion was the same: children were getting a poor education because of overcrowding. When asked about figures, several mentioned class sizes of 35 and 40 children, which official data does not bear out.[27] No one was prepared to adequately specify room size except to repeat that many rooms were too small to house the classes held in them.

When asked whether the school authorities had consciously segregated Negro children or gerrymandered school districts, the consensus among the participants seemed to be that they had not, although a number of specific problems suggestive of deliberate maintenance of segregation were mentioned.

Several instances were cited in which Negroes entitled to participate in special progress classes were believed to have been denied participation because of overcrowding of the nearest special progress class. Under the same circumstances, white children had found room in a more distant school, it was said. There was some discussion of the fact that Negro children entitled to attend a special progress class were sent to one school, and white children from the same schools were sent to another. The examples given were isolated cases and no one seemed confident that they represented a general pattern.

It was also auggested that course content, physical plant, and library resources of most Negro schools were not equal to the better appointed predominantly white schools in the peripheral areas of the city. Again there was general agreement that this was true.

One member who is an undergraduate student at the University of Buffalo, agreed that most of the deficiencies mentioned existed, but suggested that the quality of education was a problem for all Buffalo students, not only Negroes, because of the low per capita expenditure on education.[28]

Apart from general impressions there were several specifics which drew almost immediate unanimity. One such specific was school 17. Map 1 shows that school 17 is on the northwest boundary of a residential area more than 80 percent Negro. The school boundaries include, however, an area in which the housing is less than 5 percent Negro. One would expect the school to be reasonably well integrated. In point of fact-- a fact which those present knew-- it is a predominantly Negro school (98 percent Negro). Indeed, the school not only is predominantly Negro in an integrated school district but is also housed in a plant which most were willing to condemn as among the worst in the city. The school's racial composition was explained by the existence of an optional area which includes only the predominantly white portion of the district to the west. Residents of this optional area have the choice of sending their children to predominantly Negro school 17, to school 56 which is virtually all white, or to school 16 which is 40 percent white.[29] Most white parents apparently opt for school 56. The general good will attributed to the school authorities with respect to most problems, did not pertain to school 17. The Allen Report shows school 17 to have a student body which is 98 percent Negro. Since, except for the existence of this optional area, the school would be expected to be well integrated, the continued existence of the option was thought to be an example of the school authorities' unwillingness to recognize the segregative effect of their policies.

A second point of contention on which there was considerable agreement related to the purchase of a ball park as the site for the Woodlawn Junior High School.[30] Woodlawn is the third new school built as part of the general junior high school program previously mentioned. The site chosen was objected to because its location well within the Negro housing area made it certain, in the opinion of many present, that it will be a predominantly Negro school. It was suggested that that fact alone ought to have been a sufficient reason to locate it elsewhere, if the school authorities were sincerely seeking a solution to segregation.

Several participants expressed the opinion that without NAACP pressure Negro teachers would not have been promoted as readily as they have been and that, indeed, even the hiring of Negro teachers may, in part, have been effected by pressure brought by the association. The appointment of Claude Clapp as an elementary school principal was claimed to be the result of NAACP pressure.[31]

At the time of the interviews, the NAACP branch had made its presentation to the Board of Education, described in the

following paragraphs, requesting action by September 1963. By setting a deadline they had, of course, by implication threatened suit if their requests were not met. When asked about plans in this respect, the answers were vague, however, suit was not precluded. Those who spoke to the question seemed far more concerned whether the Board of Education would take the first step: that it officially recognize the educational undesirability of de facto segregated schools and pledge an attempt to eradicate segregation to the fullest extent possible.

The statement presented to the Board of Education on October 24, 1962, began with a discussion of the School Segregation Cases.[32] It then summarized the Allen Report findings and stated that the segregation existing in the Buffalo schools was in violation at least of the spirit of those cases and was unsound educational practice. In addition, it was stated, such segregation contravened the policy of the State of New York. Miss June Shagaloff, special assistant for education, NAACP, came from New York for the purpose of presenting seven possible plans called "Basic Approaches to Desegregation." The plans are those generally urged by the NAACP for the solution of segregation problems.[33] In concluding the presentation, given in full in appendix B, three specific recommendations were made:[34]

1. That the Board of Education officially adopt the policy recognizing de facto segregation as educationally undesirable.

2. That it formulate and implement a program to achieve desegregation no later than September 1963.

3. That it insure that the zoning and feeder patterns of the new junior high schools will provide maximum desegregation.

To prevent misunderstanding, the NAACP's news release, after describing the statement, concluded:[35]

> The Buffalo Board of Education was asked to take immediate action as part of the nation wide NAACP frontal attack on segregated schools in the North. NAACP school suits have been filed in the Federal courts against five New York school systems, including Rochester in upstate New York. Two complaints, against the Glen Cove and Malverne boards of education, have been taken to the State Commissioner of Education. Miss Shagaloff announced last week in Syracuse that appropriate legal action would be instituted unless the Syracuse Board of Education after months of consideration acted "promptly ... to eliminate segregation in two elementary and one junior high school."

With the exception of the figures derived from the Allen Report, and the conclusion based on the report that the elementary and secondary school systems were rigidly

segregated, very little of the presentation to the Board of Education was related directly to the solution of specific problems in Buffalo. In most respects, the statement would apply equally well to the other cities mentioned in the news release. The presentation contained no surprises and the board's action in taking the matter under advisement was equally to be expected. Two items in the report were distinctly laudatory of the school authorities. The board was commended for its "challenging educational programs" in several schools. These programs, which are described later, include now the Four Schools Improvement Program, STEP and ABLE.[36] The statement also acclaimed "the steps that have been taken by the Superintendent of Schools to achieve an equitable balance of experienced and new teachers in every school."[37]

The third recommendation, relating to the zoning and feeder patterns for the new junior high schools, is one specifically applicable to Buffalo. Except for this recommendation, however, the junior high schools are not mentioned. None of the general proposals for achieving desegregation apply to them any more than they apply to the elementary schools and it is at the junior high school level where a great deal can be accomplished because of the recent change to the 6-3-3 system.

The Problem as Viewed From the Superintendent's Office

The superintendent of schools has never wavered from a frank statement of his desire to see schooling opportunities unlimited by race.[38] He has articulated this view often in publications. He has been the professional head of the school system for 6 years and feels that during that period he has made every effort to move in the right direction with respect to the segregation problem.

He summarized his position before the Board of Education in response to the presentation by the NAACP. At that time he said that existing segregation was a result not of school policy but of housing patterns and that the school zone lines were not used to establish segregation. The changes made in school zone lines, he claimed, either did not affect the racial composition of schools or actively promoted desegregation.[39]

One of the superintendent's favorite examples of a change of school boundaries to effect desegregation is the change made in the Bennett High School district. He used the Bennett example in rebuttal at the Board of Education meeting.[40]

Before the adoption of the present boundaries, the southern boundary for Bennett was farther north; its western boundary was farther to the west. Before the change Bennett is believed to have been an almost all-white high school with a large Jewish component in the student body because of a Jewish housing concentration in a major part of the zone. The superintendent estimated that prior to the boundary change 40 percent of the students were Jews. By moving the western boundary east and the southern boundary south, the racial as well as the religious character of the school population was changed. The change in the southern boundary shifted many Jewish students from Bennett to Riverside High School. The change in the western boundary placed in Bennett a number of the Negro students who would have been assigned to the already predominantly Negro East High School. While no head count has been taken, it is estimated that 15 to 20 percent of Bennett High School may now be Negro.

On a smaller scale the revised boundaries of elementary school 54 (readjusted recently) and school 16 (readjusted years ago) furthered integration slightly.

Since high school zones are, for most purposes, as rigid as elementary school zones, changes such as those made in

the Bennett zone can be effective in accomplishing desegregation. One anecdote with respect to the Bennett boundary change illustrates a type of problem which can arise from the program transfer policy.

In the initial phases of the rezoning, a significant number of students of the Riverside High School exercised their option to attend Bennett to take advantage of a special program available at that school but not at Riverside. (It will be remembered that such transfers are sanctioned at the high school level as an exception to attendance within the residential zone.) Once it was determined that most of the students who had transferred back to Bennett had done so to take a course in Hebrew, the solution was obvious. Riverside High School added a course in Hebrew to its curriculum. The migration to Bennett was ended. The incident is mentioned not only because the potential for this type of transfer exists, but also because several people interviewed repeated the story as an example of the use of special program transfers to avoid an integrated school.

The East High School district includes a densly Negro section, and a section which the census tract map suggests contains as much territory occupied by whites as by Negroes.[41] Yet the school is generally believed to be predominantly Negro in enrollment. Many persons thought some device was being used to enable white students in the district to attend school out-of-district. Since a part of the eastern section which is served by East High School contains a settlement of people of Polish descent, the language transfer exception was suggested as the device being used. The superintendent's office stated, however, that Polish is taught in only one class in the South Park school. Therefore, Polish language transfers cannot seriously affect the racial composition of either East or South Park schools.

The superintendent expressed irritation over the credit claimed by the NAACP for the appointment of Mr. Clapp as an elementary school principal. He felt that the assertion that the appointment was based on NAACP pressure was insulting both to him as the person making the appointment and to Mr. Clapp as the appointee. The appointment, according to Dr. Manch, was made in the same way that all appointments are made in Buffalo: by choosing the first person on the eligibility list which is established by examination. After Mr. Clapp's name came to the top of the list, he was appointed an assistant principal. When an opening for a principal occurred, since Mr. Clapp was next on the eligible list for principal, he received it. It was as simple as that, according to Dr. Manch. If any aspect of Mr. Clapp's appointment seemed worthy of note to Dr. Manch it was that the school to which he was appointed is predominantly white.

Mr. Clapp agrees with the superintendent. He believes that his appointment resulted from his success in the examination, not from pressure by anyone. Indeed, he says, he would not feel he could hold his job were he not convinced

that this were so. Judging solely from the respect the teachers in the school appeared to accord Mr. Clapp, they seem to believe he merited the appointment.

The discussion of Mr. Clapp and his appointment led the superintendent into a discussion of his policy with respect to the placement of teachers generally. It was in teacher placement, as in the change in the Bennett High School boundaries, that he felt his office had been most successful in fostering racial integration. He pointed out that he was making an increasing effort to place Negro teachers in the schools outside the Negro housing area and, conversely, that the schools within the Negro area were not allowed to be staffed too heavily with Negro teachers. (Miss Shagaloff commended the administration on its efforts to achieve the equitable balance of experienced and new teachers[42] in each school.) Dr. Manch claimed that, at least since 1959, he had made it clear to his staff that Negro teachers were to be assigned to schools which had no significant Negro population as well as to other schools. This policy, he said, has been so effectively carried out that, at the present time, there are some Negro teachers in 80 of the approximately 100 schools. When asked how many Negro teachers there were in the system and how they were distributed, he said that since no statistics were kept on race either of pupils or teachers, it was impossible to answer that question. Jack L. Migliore, the Coordinator of Personnel who is responsible for the teacher personnel, made an informal but informed estimate that about 300 of the 3,100 teachers presently hired by the Buffalo school system are Negroes.

Finally, with respect to education in the schools shown by the Allen Report to be predominantly Negro, the superintendent said that every effort was being made to make the education in those schools as good as, if not better than education in other schools in the city. He pointed with pride to a special progress program in school 6 which lies in the heart of the Ellicott district. Later, Dr. Lillian A. Wilcox, Associate Superintendent for School-Community Coordination, said that the requirements for assignment to the special progress program at school 6 are lower than those for other special progress programs. An IQ of 130 or more is the rule except for school 6. Dr. Wilcox said that because of the controversy as to the bias of IQ tests in favor of the middle class white child, the 130 IQ requirement had been relaxed by Dr. Manch for the program in school 6.

Dr. Manch also pointed out other special programs in predominantly Negro schools as evidence of the efforts being made by the administration to insure equal educational opportunity for Negro students. These programs are described later in this report.

Smaller classes, permitting more individual attention, and careful selection of teachers for Negro schools were also listed as part of the administration's attempt to improve

education for the Negro pupils in these schools. The lack both of double shift schools and of overcrowding throughout the city is a source of pride to the administration.

The retention of final control over teacher placement by the superintendent's office and an effort to educate teachers to the professional challenge many Negro schools present were said to account for Buffalo's success in keeping well-qualified teachers in the predominantly Negro schools.

Although the application form permits teachers applying for employment to indicate a preference as to school assignment, the form states the official policy governing placement as follows:[43]

> It is the policy of the Buffalo Board of Education to assign teachers to schools from the point of view of maintaining, in all schools, a desirable balance between experienced and inexperienced teachers. Teachers are assigned therefore on a basis which will assure children, wherever they may reside in the city, of a reasonable balance between competent teachers of experience and of newly qualified teachers of promise.
>
> Teachers may express a preference in writing below for an assignment to a school with the understanding that such a request will be considered in accordance with the policy stated above.

Queried particularly with regard to the number of temporary teachers in the system as a whole, the superintendent claimed that teachers in all schools were equally qualified educationally, temporaries not less so than those with permanent, licensed status. He explained that in Buffalo the only difference between a temporary and a licensed teacher is that the latter has passed an examination. He suggested a number of reasons why many well-qualified temporary teachers have not taken the examination. As an example he cited mothers who have gone into teaching after their children reached school age. They were not willing, so many years after the completion of their education, to subject themselves to an academic examination. Other teachers, he said, had difficulty in passing examinations although they were good in the classroom.

According to the superintendent, the general teacher shortage and the inevitable time lag between teacher examination and the publication of the eligible list dictates the use of temporary teachers, and their placement is determined largely by the incidence of vacancies or the need of additional staff. Vacancies caused by retirement or increased enrollment often must be filled by teachers with temporary status. He explained also that there will always be the need for temporary teachers to fill the positions of permanent teachers on maternity or military leave, or for other approved reasons.

Although it was conceded that population instability was a characteristic of the attendance district of several Negro schools, the superintendent asserted that it was also true in a number of outlying white districts. However, no statistical study of the placement of temporary teachers has been made to show that they are distributed throughout the city. The number of temporary teachers in the system as of September 1962 was estimated to be about 600 of the total of 3,100.

Because of the concern expressed by the NAACP, Dr. Manch was asked about the site for the Woodlawn Junior High School, now under construction. He explained that site selection is a difficult problem at best, and that the financial advantage in the condemnation of the ball park dictated in part its choice of Woodlawn. City authorities had suggested that this site be given consideration as an economy move to keep other property on the tax rolls and also because of the housing shortage which would be increased by the choice of a residential tract. The city authorities were also eager to relocate the stadium. Furthermore, he pointed out that the alternatives to the ball park location that were considered were even farther toward the center of the Negro housing area.

The boundaries of the Woodlawn school district have not been set because of the Board of Education's policy of not fixing school zone boundaries until 6 months before the opening of the school.[44] The rule is claimed to be a necessary accommodation to shifting population patterns which make it difficult to predict in advance the appropriate community to serve.

Dr. Manch expressed the view that the western boundary should be west of Main Street (a housing barrier of some significance) to insure at least some integration in the school. He also asserted that at the time the Woodlawn location was chosen a Negro population shift to the north from Ellicott into the Cold Springs area had not fully developed. (This statement was disputed by an NAACP member who lives across the street from the present location of the Woodlawn school. He claims that the neighborhood was predominantly Negro at the time of the site selection; that the migration took place beginning in 1956, and reached a peak in 1958 when the Ellicott area was redeveloped. The decision of the board to use the ball park site was made at the board meeting of November 12, 1958. The ball park was condemned for the school site in 1959.)[45]

Inquiry was made about the racial composition of the two center schools located in the Ellicott district. It was suggested that if the pupils who attend elementary schools in the Ellicott area go on to the center schools, the Negro population of the center schools must be about 88 and 96 percent.[46] The superintendent agreed that this was true.

Asked whether the center schools were going to be retained, he said they would not be, that they would be replaced by junior high schools.

With respect to school 17, Dr. Manch commented only that the creation of the optional transfer zone preceded the racial problems and that the school was slated for razing because of age.

The superintendent's views on open enrollment were solicited. Although suggested as a possibility in the NAACP statement to the Board of Education,[47] it was labeled as the least effective solution. In terms of the needs of the Buffalo system, as well as in terms of accomplishing integration, the superintendent opposed open enrollment. He suggested, however, that if evidence of good faith were required, an open enrollment policy might serve the purpose.

The superintendent claims that the NAACP contributed nothing new in its presentation to the board and believes that his record in office shows that he can be trusted to do everything that is feasible without prodding. The record is summarized in a letter to the NAACP dated June 19, 1962, which lists about a dozen publications describing projects or embodying materials used in the schools to carry out the board's policy of equal opportunity for all children, regardless of race, creed, or color.[48]

Little has been said about the role of the Board of Education. The board, when this report was prepared, had not taken a position with regard to the racial problem, other than to endorse Dr. Manch's program.[49] A few members show an active interest in obtaining information on which to base a more definitive policy. It is clear that prior to the Allen Report and the presentation by the Buffalo branch of the NAACP, the board had not formulated its views. The board's position appears to have been correctly described by its president when he said that it was sympathetic to the problem and would take under advisement the possibility of some form of remedy.

It would be difficult to ascribe to its members a consensus as to what ought to be done, or indeed, as to what the specific problems are. For the moment, at least, the superintendent's office and the NAACP seem to be more committed in the controversy than does the Board of Education.

Possible Effect of Optional Areas on Racial Composition Of Schools

In general, elementary pupils are assigned to attend the school in the district of their residence. An exception to this rule which permits residents of certain parts of a few districts to choose between two or more schools has been mentioned above. It is, of course, possible that the granting of transfer options in some but not all districts may raise a problem of equal protection of the law, irrespective of their racial impact. There exists a duality of classification. If the duality was completely arbitrary at its inception, it is unconstitutional. It should be noted, however, that in cases in which the existence of a double standard has not resulted in racial, religious or financial discrimination, the courts have shown great reluctance to interfere with local administration and an enviable facility at finding a reasonable basis for distinction.

A further attenuation of the problem exists if one assumes the reasonableness of the dual standard at the time it was initiated, but finds a deterioration of the reason with the passage of time. Where racial segregation results, failure to review prior distinctions may raise a constitutional question.[50] In less sensitive subject areas, there is reason to doubt constitutional interference. Clearly, if there is presently a rational basis for the distinction made, it is constitutional. The information gathered does not indicate into which of the above mentioned hypotheses Buffalo's optional transfer privileges fit.

The granting of an exception to the residents of certain areas might, for example, be justified by the distance between their homes and the district school. Some of the optional areas in Buffalo appear to be about equidistant from the district school and the optional school; some optional areas are closer to the optional school. Both situations, however, exist in many other areas in Buffalo where the residents have no option.

If there is any reason other than history or tradition for the continued existence of the optional areas, the superintendent did not advance it when queried by the author on the specific point. To the extent that the continuation of optional transfer reinforces or increases segregation, the insufficiency of the rationale for optional zones may be relevant in demonstrating improper motivation in inaction which results in segregation. This, in turn, may make out a valid claim under otherwise equivocal circumstances.

The complaint of the NAACP that the operation of the optional transfer caused school 17 to be 98 percent Negro was mentioned earlier.[51] The probable validity of the NAACP's claim as to school 17 led to an examination of the racial composition of the enrollment in all schools affected by optional attendance areas.[52]

It should be pointed out that an unknown factor--private school attendance--also may affect the racial composition of a particular school. For example, the population of a small optional area, such as the western optional area in district 17, may be heavily Catholic and the Catholic children living there may attend a parochial school rather than school 56. If this were true, the Negro concentration in school 17 would result in large part from that circumstance rather than from the existence of the optional area.[53] According to the 1960 census 37.6 percent of the total elementary school enrollment in Buffalo is in private schools.[54]

Only a head count by race showing the school attended by out-of-district pupils, such as was done in 1962 by the superintendent of Philadelphia public schools for the report on Philadelphia to the U.S. Commission on Civil Rights,[55] could provide an indisputable answer. But an analysis showing the racial composition of the schools in the district in which the optional areas are located and of the schools which pupils may elect to attend is suggestive. Such an analysis is shown in appendix D.

Before examining the available facts as to the effect of the optional attendance areas on the racial composition of schools, the legal questions will be discussed briefly.

There is no direct authority holding that the creation of optional areas, such as exist in Buffalo, is unconstitutional even if the result is to accentuate racial imbalance in the schools. The cases discussed below, however, raise doubts as to their constitutionality and suggest further that the school board has the burden of justifying their continued existence.

The school board might argue that segregation results from the individual choice of each pupil who exercises or fails to exercise his option, not from the action of the school board in granting the option. Such an argument was made to the court and rejected In The Matter of Skipwith,[56] which concerned teachers rather than pupils, because the power of assignment was vested in the school authorities. Here also the power is in the school board, although it permits some pupils a choice of school.

The constitutionality of the granting of a transfer right on the basis of race is now pending before the Supreme Court.[57] Whether the Sixth Circuit rule upholding such

transfers will be sustained is not now known.[58] The Commission suggested in its 1961 Education Report[59] that the rule should be held unconstitutional because it permits all white students to transfer out of formerly or predominantly Negro schools, leaving an all Negro enrollment again, and that such a result invalidated the rule. Similarly, in Buffalo, if the racial character of an optional area is different from the racial character of the rest of the school district, the exercise of the option by students may be the cause of virtually all-white or all-Negro schools. This should be sufficient to condemn it as unconstitutional, unless the granting of the choice can be justified on non-racial grounds.

The fact that the option itself is granted to all residents of a geographic area would seem to be immaterial if the racial imbalance in the area is marked.[60] If most of the residents of an optional area are of one race, and the school district generally is another race, the fact that pro forma the option is granted geographically may be immaterial.

Although in Taylor v. Board of Education (New Rochelle),[61] the court ordered the school board to allow pupils resident in one elementary school attendance area to transfer to any other elementary school in the city, the case is not authority for such an action without cause. The basis for the order in New Rochelle was findings of previous wrongdoing. The court found that the board had gerrymandered the zone for the school many years before and changed the boundaries from time to time to contain the growing Negro population within the school; further, that the board had assured the racial character of the school by permitting white students to transfer out, and finally, when it withdrew all transfer rights, it had maintained the status quo, i.e., a predominantly Negro school. Thus New Rochelle is not authority for a general proposition that an option may be granted to the residents of one area and not to residents of others. The justification for the option there is the previous wrongful action of the board.[62]

OPTIONAL AREAS HAVING NO APPARENT RACIAL EFFECT

The figures show that the choice of schools granted to those living in the optional area located in districts 68, 71, 64, 43, 57, and 29 could not have any marked effect on segregation or integration of schools. The optional area in each case is shown by the census to lie in a less than 5 percent Negro tract. Both schools affected by the option are all white or nearly all white in enrollment. The other 4 optional areas, however, require further examination. Caution is required, however, in interpreting the following discussion concerning the racial composition of housing.

The census tracts from which the composition is derived deal with areas too large to be precise as to sections as small as the optional zones.

OPTIONAL AREAS IN DISTRICT 17

This district is composed of three triangular areas of about equal size but of markedly different racial composition. The 1960 census shows the northern triangle to lie in an area that is 5-29 percent Negro, the eastern half of the portion south of the cemetery to be located in a tract over 80 percent Negro, and the western half to be in a section less than 5 percent Negro. The northern triangle is designated optional area 17a in appendix D.

The residents of optional area 17a may attend schools 17, 54, or 74. Since there are only 16 white pupils enrolled in schools 17 and 74, which combined have over 1,300 Negro pupils, the white pupils residing in optional area 17a either attended school 54 or private or parochial schools. Some Negro pupils from the optional area may also attend school 54 since it is about 34 percent Negro, which is a higher proportion than the census tract designation of 5-29 percent Negro would lead one to expect, although in general the Negro public school enrollment is higher than the proportion in the general population. Any inference is speculative with so large a spread between the upper and lower limits of the census classification.[63]

The other optional area in district 17, designated 17b in the table, falls in a less than 5 percent Negro section in the population. The residents of this area may opt for schools 56 and 16. The enrollment of school 56 is almost all white, as is the population of the school district. The portion of district 16 east of Main Street (in area about one-fifth of the district) is over 80 percent Negro and the school is 61 percent Negro. Clearly the white residents of optional area 17b will be found in school 56, not 16 nor 17, if they attend public school at all.

OPTIONAL AREA IN DISTRICT 31

This optional area presents another case where it appears that the white residents exercise their right not to attend the predominantly Negro district school and choose school 40, which is predominantly white. Slightly more than one-half of the total area of district 31 is in a 50-80 percent Negro census tract; the rest, which includes the optional area, is in one less than 5 percent Negro. Since about half of district 40 is in a 5-29 percent Negro section, and a few blocks in the 50-80 percent classification, school 40 is about 90 percent white, and school 31, 94 percent Negro, the racial composition of school 40 seems to be related to

the choice made by the white residents of optional area 31. It may also be that Negro residents of the optional area in district 40 opt out.

OPTIONAL AREA IN DISTRICT 40

District 40 itself contains an optional area where the residents may choose school 40 or 75. This optional area is in a 5-29 percent Negro tract. The choice of school 75 by its Negro residents may help to keep school 40, 90 percent white.

As reported earlier the superintendent's reply to an inquiry about the effect of the option granted the residents of optional 17b on the racial composition of the enrollment in school 17 was that the optional areas existed long before segregation became a problem in the Buffalo schools.[64] Tradition and inertia are powerful forces in our society. They seem a weak excuse, however, for inaction.

SUMMARY

Eight schools are affected by the 4 optional areas discussed above, 17, 54, 74, 56, 16, 31, 40, and 75. Using the definition first used by New York City that schools 90 percent or more Negro and Puerto Rican in enrollment are "X" schools, those having 90 percent or more whites are "Y" schools, and only those having at least 10 percent whites and also at least 10 percent Negroes and Puerto Ricans in their enrollment are integrated schools, 4 of these schools would be classified as "X", 1 as "Y", and 3 as integrated schools. In other words, 5 out of 8 are highly segregated white or Negro schools. Another, school 40 which is 89 percent white, just barely qualifies as integrated. It seems possible that the elimination of these optional areas and an adjustment of boundary lines, if necessary to avoid overcrowding, might relieve the racial imbalance in these schools.

Where the question has been in issue, courts have held that school boards have no affirmative duty to bring about integration in the schools.[65] This is not the constitutional issue raised as to the Buffalo optional areas. Here the questions are: (1) Is there a justification for the continued existence of the optional areas? (2) Do they contribute to segregation in the schools? and (3) If they are not now justified or they contribute to segregation, does the school board have a duty to correct the situation?[66]

The Hiring and Placement of Negro Teachers

To the extent that the School Segregation Cases[67] relied on the psychological effect on Negro children of the separate-but-equal doctrine, it found the evil to be the deprecation inherent in using race as a classifier. It may be that de facto separate and truly equal schools, by this analysis, would not violate the 14th amendment insofar as it was clear that no classification by race had forced Negroes to attend school with other members of his race. Constitutionally, it may be enough that there is an opportunity for some members of the Negro race to go to school with white children, although others selected by nonracial criteria, such as residence, must attend schools enrolling only Negroes. If the constitutional guarantee runs to an equality of potential opportunity rather than a right to actual intermingling, the school hiring and placement policy with respect to teachers plays a significant role.

Whatever justification there is for a narrowly defined neighborhood school concept with respect to pupils, it would not seem to apply to the placement of teachers. Pupils, especially in elementary grades, in a city which provides no transportation for them, must be protected from the hazards of traffic and the ravages of weather, at least to some extent. In addition, a school located in the neighborhood not only has a historical base but may be more responsive to local needs than a school organized on some other basis. Be that as it may, teachers presumably can provide their own transportation. No historical policy requires that they be assigned to schools within walking distance of their homes. No concept of neighborhood identification seems as important in placing teachers as the educational benefits derived from placing them in such a way as to provide the best balanced education in the greatest number of schools.

Viewed in this light, an evaluation of teacher hiring and placement policies in the Buffalo system is pertinent. If the children in predominantly Negro schools have at least some white teachers, which they have in Buffalo schools, contact with white people is not entirely denied. Likewise, white pupils having no Negro classmates learn something of the world beyond school from having a Negro teacher.

In this area, there seems to be identifiable progress in Buffalo. Although no statistical information is available, no one seems to challenge the statement that about 300 Negro teachers are employed in the system or the assertion that 80 of the approximately 100 schools have at least one Negro faculty member. Everyone interviewed seemed satisfied with the recent practice, although there was less agreement as

to how long the policy of assigning Negro teachers throughout the city had been in effect. A Negro principal with long service in the Buffalo school system agrees that there appears to be no discrimination either in initial hiring or in the promotion of Negro teachers. The claimed official policy of hiring and promoting from the eligibility list established by examination is not generally challenged by Negro leaders.[68]

The fact that there is one Negro teacher or more on the staff of 80 schools does not say much about the distribution of the 300 Negro teachers estimated to be employed in the system. No claim was made that the distribution is proportional. In fact, it was admitted that there probably are far more Negro teachers assigned to predominantly Negro schools than to other schools. However, the administration asserts that in all schools the number of white teachers exceeds the number of Negro teachers.

Four causes for the concentration of Negro teachers in the Negro schools were suggested by school officials. In some cases, Negro teachers were brought into a school to handle situations with which white teachers had proved unable to cope. Sometimes Negro teachers were assigned to fill vacancies that could not be filled otherwise. Population shifts create a need for additional staff in Negro schools, and as neighborhoods become Negro, white residents, including white teachers, move out, which may cause the latter to request transfers to schools nearer their homes. Finally, some Negro teachers request assignment to Negro schools. Dr. Manch has a file containing a number of letters from Negro teachers requesting that they not be assigned to white schools. A few letters asked for reassignment to a Negro school. In spite of the official policy of assigning teachers in the best interest of the school system, the general scarcity and mobility of well-qualified teachers make it impracticable entirely to ignore the pressure arising from the above causes.

In Buffalo, teachers may be hired on a temporary status pending examination for certification and retained in that status indefinitely so long only as there are no licensed teachers available. The school authorities are free to choose among the applicants for temporary teaching positions on criteria established by the New York State Commissioner of Education and the Buffalo Board of Education.

The legal requirement that temporary teachers not be hired when there are licensed teachers available[69] conforms with the policy of the State. In most cities of the State, however, temporary teachers are conceived of as transitional personnel and may not serve more than a transitional function.[70] Buffalo, however, has statutory permission to make greater use of them, pending examination, subject only to the requirement that licensed teachers be hired if available.[71]

Unfortunately, no statistics are available to show how many of the 300 Negro teachers presently teaching in the system are temporary rather than permanently licenced teachers. The coordinator of personnel however, reports his conviction that there is no imbalance as to the number of white or Negro teachers having a temporary designation.[72]

Questions raised by NAACP members about the quality of education in predominantly Negro schools, led to a request to the superintendent's office for statistical data as to the educational qualifications of teachers in those schools. Dr. Wilcox produced a staff study of 20 schools made in May 1962 by the Division of Personnel which has been reviewed for possible light on the question.

This study listed the name of each teacher assigned to each school, the grade to which he was assigned, his academic preparation (both undergraduate and graduate study), age, and years of teaching experience.[73] The 20 schools selected were chosen to include representative schools.

The Allen Report[74] showed 9 of the schools selected to be predominantly Negro in enrollment and 10 to be predominantly white. The 20th school, number 87, had to be discarded because it is a center school for 7th and 8th grade pupils only and hence is not included in the Allen Report. Not only were statistics on the racial composition of the enrollment not known for school 87, but information as to the temporary or licensed status of the teachers assigned to the school also proved to be unavailable.

Information was secured from the superintendent's office as to the temporary or licensed status of each teacher in each of the 19 schools and added to the data derived from the staff study. The composite result is tabulated in appendix E.

An analysis of the educational qualifications of the temporary and licensed teachers assigned to these 19 schools shows that a considerably larger proportion of licensed teachers have earned master's degrees or completed 30 hours of graduate study, while an equal number of temporary and licensed teachers have received bachelor's degrees. If academic preparation is a measure of teaching ability, the superiority of licensed teachers seems demonstrated.

Number per 100 Teachers Having Education Indicated

	Temporary	Licensed
Master's degree	3	12
30 hours graduate study (includes above)	7	21
Bachelor's degree (includes above)	72	72
Less than A.B. degree	28	29[75]

Measured by years of teaching experience, licensed teachers have a decided edge on temporary teachers. The median years of service of the temporary teachers in the 19 schools is 6 years (in a range from 1-22 years) as opposed to a median of 17 years for licensed teachers (in a range from 8-28 years). If experience is a measure of teaching ability, the superior qualification of the licensed teacher is great.

The number of temporary teachers assigned to the 10 predominantly white and 9 predominantly Negro schools is shown in appendices F and G. In the predominantly white schools only 9.3 percent of all teachers are temporaries, in contrast with 26 percent in the predominantly Negro schools. The administration explains this disparity as the result of a greater need for additional teachers in the predominantly Negro schools owing to increased enrollment.

In academic training a similar disparity between the qualifications of the teachers assigned to the two groups of schools appears if the temporary or licensed status is disregarded. These data appear in appendices H and I.

The results of the comparison are summarized below.

	Predominantly White Schools		Predominantly Negro Schools	
	No. of Teachers	Percent	No. of Teachers	Percent
Master's degree	46	12.7	23	7.5
30 hours graduate study (includes above)	80	22.0	37	12.1
Bachelor's degree (includes above)	252	69.4	223	73.1
Less than A.B. degree	111	30.6	82	26.9
Total teachers	363		305	

The figures suggest that the predominantly Negro schools suffer somewhat as compared with the predominantly white schools from the excess assignment of temporary teachers insofar as their formal education is concerned as well as in years of teaching experience. Since the predominantly Negro schools in the sample used have 2.8 times as many temporary teachers as the predominantly white schools do the predominantly Negro school seems seriously disadvantaged.

It should be remembered also that the NAACP spokesman voiced the view that temporary teachers were less committed professionally to teaching than licensed teachers are. If this is true, their disproportionate assignment to the predominantly Negro schools would further handicap the educational program in those schools. The administration reports, however, that about 80 percent of the temporary teachers attain a probationary status after the first year in the Buffalo system. Thus, even if the observation is valid it would seem to be limited to a small proportion of teachers of temporary status.

Special Programs in the Negro Schools

In appraising educational opportunity for Negroes in Buffalo schools one must note the steps that have been taken to to improve the offerings in three of the predominantly Negro schools. Perhaps chief among the present programs is one initiated at school 12 which has now been broadened to include, in addition to school 12, schools 36, 47, 73 and 75.[76] All these schools are in culturally deprived areas and three are predominantly Negro schools. Essentially, the school 12 program deals with the special educational difficulties of socioeconomically deprived students. Reading consultants, remedial reading teachers, speech teachers, and social workers are added to the staff of the schools to help the students. In addition, trips are organized to permit students to attend events which they would not be able to attend otherwise.[77] The expansion of the program and favorable press comment attest its value.[78] Dr. Manch takes pride in the special program in these schools, in part because he believes that they will raise the students' achievement.

Project ABLE,[79] based on many of the same concepts as the school 12 program, does not apply to an entire school population but selects the students in culturally deprived schools, who are thought capable of greater achievement than their classmates. The children chosen for the project are given special training not only in languages, social studies, and similar courses but also, if necessary, remedial help in reading and mathematics. In addition, they are given the opportunity to attend scientific lectures, the theatre, sports events, and musical performances. A report published by the Board of Education on project ABLE states that the reaction of the pupils involved and their parents is uniformly enthusiastic.[80]

The STEP program seeks to prevent early school dropout, wherever it occurs. This is a work-study program designed to prepare the student for employment. The Board of Education claims the program has been helpful in retaining and reclaiming pupils.[81] It deserves a place as one of the trilogy of special programs to improve the quality and quantity of Negro education in Buffalo, because although not designed specifically for Negroes, it serves many of that race. In its presentation to the Board of Education the NAACP specifically mentioned all three programs, endorsed them and urged their continuation and expansion.[82]

The programs described are not inconsistent with the objectives of proponents of increased integration in the schools unless they are used as a substitute for other

action. Indeed, such programs give the segregated student some of the advantages he might receive by a broader cultural exposure in a well integrated school. On the other hand, the special programs are equally applicable to cultural problems of children in integrated schools, and in fact they are so used in Buffalo. In short, special programs, improved education, and more integration are not mutually exclusive. The Buffalo school authorities profess this belief.[83]

The existence of special programs in several of the predominantly Negro schools creates a curious contrast in the quality of education available to Negroes in Buffalo. Those attending school 12, and now 47 and 75, have a culturally saturated program. In contrast those in other predominantly Negro schools have too many temporary teachers. School 12 is a training ground for many new teachers while the surrounding predominantly Negro schools seem to be unable to attract a sufficient number of licensed teachers to maintain the balance between new and experienced teachers which the superintendent's office insists is essential, especially in the schools for culturally deprived students.[84] Some Negro students seem to have more educational advantages than students outside the Negro housing area but the large proportion appears to be getting less.

School Zone Boundaries

Where, as in Buffalo, residence within a geographic area controls school attendance, with a few exceptions,[85] the boundaries of the attendance zone are a key determinant of the racial composition of the school. If the boundary lines of a school district coincide with the prevailing racial pattern in housing, school enrollments inevitably show a high concentration of one race or the other. It was pointed out earlier that this circumstance appears to exist to a considerable extent in Buffalo.

District boundary lines, however, may be adjusted to overcome racial imbalance in a school and this also has occurred in Buffalo in at least two instances in recent years. The change made in the boundaries of Bennett High School's attendance zone, and school 54 have been mentioned.[86]

The anomalous optional attendance areas within some districts have also been discussed.[87] It was noted that some of the optional areas may contribute to segregation in the schools, and the constitutionality of their existence was questioned if they do in fact have a segregative effect and there is no compelling justification for their continuance.

Little has been said about possible imbalance in the academic high schools which are also districted. Map 3 shows the districts for the 7 academic high schools and the racial concentrations in the areas served. Some Negro students were drawn into Bennett when its southern boundary was pushed farther south. Most of the rest of the dense Negro areas fall in the zone of East High School, the enrollment of which is estimated to be about 80 percent Negro.[88]

There is no indication that the school administration will voluntarily undertake a wholesale reconsideration of the boundary lines for elementary and academic high schools at any time in the near future. The shift from a two- to a three-level system, however, gives Buffalo a unique opportunity in locating the new junior high schools and the boundaries for their districts so as to reduce segregation. The administration is forced to consider the extent to which school integration should be a conscious goal in fixing the zone lines for the new junior high schools and in locating additional schools.

JUNIOR HIGH SCHOOL BOUNDARIES

Two junior high schools have been built, opened, and the areas they serve determined. The boundaries established for these schools give no clear indication of the board's policy with regard to the desirability of a racially heterogeneous school population.

Genesee Humboldt, which opened in September 1961, was given boundaries coextensive with all-white school 9, school 60 (99 percent white), school 90 (97 percent white), and schools 24 and 59 (both 73 percent white). Since the total white enrollment of the schools mentioned is about 1,800 as compared with a total Negro enrollment of 175, Genesee Humboldt can be expected to be over 90 percent white.[89] From a study of the maps and the composition of the schools it appears that, as in the case of Bennett, more racial heterogeneity could have been achieved by placing the southern boundary farther north and the western boundary farther west.

Fillmore Junior High School opened one year later than Genesee Humboldt. The zone lines for this school encompass the all-white school 23 district, all of district 61 (99 percent white) and portions of districts 54 and 74. School 54 is about 60 percent white and 74 virtually all Negro.[90] Since only portions of the last two school districts are included in the Fillmore district no estimate can be made of its racial composition. It is clear, however, that the inclusion of parts of districts 54 and 74 must have introduced Negroes into Fillmore in more than token numbers.

The record of the boundaries set for these two junior high schools does not reveal any decisive board policy to foster integration in the new junior highs. Since the rest of the city, including most of the Negro residential areas, remains to be divided into junior high districts it may not be too late. The school board could still make avoidance of <u>de facto</u> segregation at the junior high level a major objective.

Woodlawn Junior High School is under construction and is expected to open in the fall of 1964. Its location is shown on map 2 but the district boundaries have not yet been fixed. The protest of the NAACP leaders over its location has been mentioned.[91] Its eastern and northern boundaries appear to be settled by the western boundaries of Genesee Humboldt and Fillmore and the city cemetery. Woodlawn's western boundary would seem to have to cut through about the middle of districts 30 and 16 if a segregated Negro school is to be avoided. This may not be possible within the school's capacity if it is to serve all pupils living in the area directly south of the school up to the apparently agreed upon northern boundary of Clinton Junior High.

School 87 (Clinton Junior High School on map 2) is presently being refurbished to convert it from a center school for grades 7 and 8 into a junior high school by adding facilities for the 9th grade. The junior high school district map provided by the superintendent's office for this report showed boundaries for Clinton identical with those of the combined zones of the feeder schools now sending their 7th grade pupils in spite of the 6-month rule on announcement of boundary lines for new schools. If these boundaries are retained and the racial composition of the feeder schools carries over to Clinton, its enrollment will be at least 90 percent Negro. No official action had been taken at the date of writing and school authorities reported different boundaries had been recommended for consideration.[92]

To complete the ominous predictions of a high degree of segregation in the junior high schools as they open, it must be reported that it is rumored that Fosdick-Masten Girls' Vocational High School is to be converted into a junior high and a new girls' vocational school built on the site of school 17, soon to be razed. The superintendent's office denies having such plans but the school budget submitted calls for the construction of a Fosdick-Masten Junior High School. Such a location could result in a third highly segregated Negro junior high.

Where, as in Buffalo, the area of Negro housing is comparatively narrow east to west and long from north to south, the only way segregation can be avoided by districting is to make the districts wide east to west, and short from north to south. If three junior high schools are located on a north-south line, deep in the Negro residential area, this becomes difficult and, perhaps, impossible; site selection may limit the possibilities.

In fairness to the Board of Education, it should be pointed out that site acquisition appears to be a difficult problem in Buffalo. Site cost is a substantially larger percentage of total construction cost in Buffalo than in the four other largest cities in New York State;[93] that fact alone must put pressure on the board to economize wherever possible. Whether in fact the acquisition of the ball park as the site for Woodlawn resulted in a substantial dollar saving over the other property which might have been chosen is not known. The renovation of school 87 for Clinton Junior High undoubtedly was less expensive than building a new school in a different location.[94] Similar reasons may ultimately dictate the selection of the Fosdick-Masten site.

The junior high schools districts that will serve the Negro community have not yet been set; that perhaps is as optimistic a statement as can be made with respect to the prospects for integrated junior high schools in Buffalo. Decisions fixing the boundaries for Woodlawn and Clinton, which will soon be made, and future site selections will answer the question: Will the junior high schools have the same pattern of segregation that the elementary schools now have?

Buffalo at the Crossroads

Buffalo is at a crossroad. One path leads to a continuation of the pattern of extensive school segregation; the other to less segregation. This is most apparent at the junior high school level. As suggested above, it even may be true that the crossroad has been passed and a step or two will have to be retraced if Buffalo wants to choose the path leading to integration. In any event, the opportunity to set up new junior high school districts, without the interference incident to changing long-established zones, gives the Board of Education a dramatic opportunity to change the racial pattern of schooling for three grades. The influence of an interracial experience in those three grades conceivably might affect higher grades as well.

The choices which must be made either actively or by default have been outlined above. The necessity of choice raises a question alluded to earlier: To what extent does the 14th amendment require a school board to seek to avoid segregation in setting school boundaries? The courts have not yet answered this question. Even if not required to take action to bring about integration, may a board take race into account in any of its actions? Racial integration is not apt to be achieved if race is not considered.[95] If prohibition of the use of color as a basis of classification[96] applies equally when the purpose is desegregation,[97] it would seem to follow that the board could not properly take the racial composition of any proposed school zone into account. The simplicity of the statement, however, may gloss over the basic constitutional issue. If classification by race for purposes of segregation is violative of the Constitution because it is constitutionally invalid to force an inferior status upon a citizen,[98] the presumption of inferiority inherent in a relegation to a separate school may be the specific subject of the interdiction against the use of race as a classifier. From this it would follow that a reasonable classification which included racial considerations, among others, would be exempt from constitutional sanctions.[99] Hence, school boards believing that schools with intercultural influences serve the goals of education in our Nation would be justified in considering the race, religion, or national origin of a proposed student group. Such classification is not tainted with the invalid assumption of inferiority and is based on what appears to be a reasonable educational objective: cultural heterogeneity. The argument is theoretical. It has not been the subject of judicial decision.

The Buffalo Board of Education probably need not be concerned with such constitutional niceties. It may be

sufficient for its purposes to note that there is now no indication in the law that racial consciousness, for the purposes of achieving integrated schools, is forbidden. As a part of the New York school system, Buffalo is subject to the mandate of the State Department of Education[100] and the declared policy of the State Board of Regents,[101] both of which expressly call for conscious efforts toward providing integrated schooling. The Buffalo board would seem to be bound by this State policy and thereby relieved of the responsibility of deciding what its own goals ought to be with respect to the racial composition of schools.

If the Board of Education hesitates to redraw school zone lines to achieve integration, another course of action might lead to the same result. Some people think that the degree of integration in the vocational schools, which are open to all youth in the city, suggests that open enrollment at the higher grade levels would achieve more integration in Buffalo than other schemes. Most of the responsible leaders in the Negro community and in the superintendent's office, however, view open enrollment with suspicion.

There does not appear to be adequate awareness either by the school authorities or by the NAACP of the imminence and importance of the decisions to be made.

In its presentation to the Board of Education, the NAACP pressed for a recognition of the inequality of the de facto segregated schooling and for the adoption of a plan that would eliminate it. As a third item, the zoning and feeder pattern for the new junior high schools were mentioned. This is the area that no doubt should have been emphasized because it involves the adoption of new boundaries rather than changing existing ones. The presentation, which coupled discussion of the general inequities of segregation with praise of the administration's present policies, did not seem calculated to produce immediate action. Indeed, the factual basis of the NAACP's commendation of the steps taken to achieve an equitable balance of experienced and new teachers in every school is not known. It was not borne out by the analysis of the placement of temporary and tenured teachers given above.[102]

The suggestions as to desegregation methods were general and not necessarily applicable to Buffalo. It may be that the failure of the NAACP to suggest specific remedies for the de facto segregation in Buffalo which has resulted from the neighborhood school policy left the impression that Buffalo shares a typical northern problem which is largely insoluble so long as housing segregation exists.

Inequities in some of the schools that are predominantly Negro seem to exist and probably will continue in spite of the best efforts of the administration because they probably relate to segregation itself. If the preponderance of temporary teachers in the predominantly Negro schools

results from the refusal of permanently licensed teachers to work in such schools, whatever deficiencies ensue may be irremediable.

Drawing the junior high school zones to form interracial school communities for that level does not resolve segregation in the rest of the school system, but it is the easiest zoning-to-achieve-integration solution presently available. Segregation in the elementary schools and in at least one of the academic high schools will ultimately have to be faced as an educational issue. The decision with respect to junior high school zones, however, cannot be delayed.

Dr. Manch holds out hope that Woodlawn Junior High School will be an integrated school. "The zone will cross Main Street if I have anything to say about it," he declares. If in spite of its location, Woodlawn can be made an integrated school; the same may be possible at Clinton. These are the new boundaries which must be drawn soon. If they contain only de facto segregated elementary school districts, even the most benevolent official policy will not bring about integration. If, on the other hand, the new junior high school zones break up the segregated elementary school pattern, and achieve integration at the intermediate level, the next step toward a true community school system, rather than a neighborhood school system, should be easier.

NOTES

1. Total population: Buffalo 532,759, New York City 7,781,984. 1960 Census, PC(1)-34B, table 21.

2. This report was written shortly after California surpassed New York in total population. The exact date of the event is uncertain; Governor Brown claims November 24, 1962. N.Y. Times, Nov. 28, 1962, p. 52.

3. N.Y. Times, May 11, 1961, p. 33. There is a smaller proportion of Buffalo elementary schools enrolling 10 percent or more of both white and Negro and Puerto Rican children (18.7 percent) than of New York City schools (44.7 percent). Computations made from University of the State of New York, State Education Department, School Population Questionnaire (see app. A) and Board of Education of the City of New York, Central Zoning Unit, The Problem of Pupil Growth Elementary School Population, table 5a (Mar. 1962, revised June 26, 1962).

4. See maps at the end of this report.

5. 1960 Census, PC(1)-34B, table 21.

6. See map 1.

7. Law Against Discrimination, N.Y. Laws 1961, ch. 414. Since the law applies primarily to developments of 10 or more houses constructed under VA or FHA programs and offered for sale by a single owner and specifically exempts owner-occupied dwellings of 3 or less units, its impact on established urban areas is necessarily limited. See 4 U.S. Commission on Civil Rights Report, Housing 198 (1961). (On Apr. 22, 1963, Governor Rockefeller signed an amendment which will become effective Sept. 1, 1963. It is estimated that the new law will reach 95 percent of the private housing market, in contrast with 15 percent of the market outside of New York City under the 1961 law. N.Y. Law print 3035-Intro. 2875, N.Y. Times, Apr. 23, 1963, p. 1C. Editor's note).

8. See e.g., Buffalo Board of Education, The Community Relations Policy in the Buffalo Public Schools (reprint 1962) stating the antidiscrimination policy of the Buffalo public schools and marshalling supporting authority from the New York State Law Against Discrimination; art. 1, U.S. Constitution; Pericles; Lincoln; Washington; and the Bible.

9. Much of this work, supervised by Dr. Lillian A. Wilcox, is related to community integration problems.

10. A listing may be found in the letter to Mr. Raphael DuBard from Dr. Manch, June 19, 1962, reproduced as app. C.

11. Freedom's Foundation award for 1959-1960 for... "Programs accenting citizenship responsibilities."

12. Certificate of Award by the Buffalo Urban League, May 2, 1962, presented to Dr. Manch, "For his widely acknowledged humanitarian interests: For his belief in equality of all men without regard to race, creed or national origin: For his support and promotion of these ideals through the Buffalo Public School System, to the end that Buffalo's schools excel most cities in the U.S.A. for human relations through education."

13. The Buffalo Evening News "Outstanding Man of the Year," 1958.

14. Certificate of Recognition of the National Conference of Christians and Jews, February 20, 1961, to Dr. Manch for (among other things) "helping to eliminate intergroup prejudices...."

15. Certificate of Recognition, National Conference of Christians and Jews dated February 24, 1956, to Dr. Lillian A. Wilcox for "Outstanding leadership in promoting the cause of good will and understanding... /and/ helping to eliminate intergroup prejudices...."

16. Miss June Shagaloff, Special Assistant for Education of the NAACP, stated in a press release at the time of her presentation to the Buffalo Board of Education (see note 35 infra) that five suits brought by her organization were pending in New York and that an additional suit was imminent in Syracuse, unless prompt action was taken.

17. The press release, infra note 35, indicated that complaints had been filled with the New York State Commissioner of Education concerning de facto segregation in Glen Cove and Malverne, New York.

18. 163 U.S. 537 (1896).

19. Quoted in part in Conference in Washington, D.C., Before the U.S. Commission on Civil Rights, Education 67 (1962).

20. Ibid.

21. Johnson, "Report of Special Study of Elementary School Pupils, New York State Department of Education" 1 (1962 mimeographed).

22. Report of the U.S. Commission on Civil Rights, 1959 at 327. See also 2 1961 Report of the U.S. Commission on Civil Rights, Education 184 (hereinafter cited as 1961 Education Report). The Commission recommended a Federal census. Several northern cities have made an ethnic head count of public school enrollment annually; St. Louis, in Oct. 1962 for the first time and specifically in response to the Commission's recommendation. See letter from Philip J. Hickey, Superintendent of Instruction, St. Louis Public Schools, to Berl I. Bernhard, Staff Director, U.S. Commission on Civil Rights, Nov. 2, 1962.

23. Johnson, "Report of Special Study of Elementary School Pupils, New York State Department of Education," July 31, 1962 (mimeographed).

24. University of the State of New York, State Education Department, School Population Questionnaire. The portion dealing with Buffalo City School District is reproduced in app. A, and hereinafter called the Allen Report.

25. Comparison of Ethnic Composition of Elementary Schools 1961-62.

	Total No. Schools	"X" Schools(1)	"Y" Schools(2)	Integrated(3) Schools
Buffalo	80	14 (17.5%)	51 (63.7%)	15 (18.7%)
New York City	573	102 (17.8%)	215 (37.5%)	256 (44.7%)

(1) "X" schools: 90 percent or more Negro and/or Puerto Rican.
(2) "Y" schools: 90 percent or more other.
(3) More than 10 percent both.

Source: Documents cited supra note 3.

26. Except as otherwise indicated the information contained in the chapter is based upon personal interviews in November and December 1962. The statements made represent the opinions of those interviewed. The position of the school authorities is given in the following chapter.

27. In fact the average class size in nine predominantly Negro schools was 31.5 as compared with 33 for 10 predominantly white schools in Oct. 1962. Interoffice memorandum to Dr. Lillian A. Wilcox from Dr. Dwight E. Beecher, associate superintendent, Division of Finance and Research, dated July 3, 1963. Dr. Beecher used the same schools as were used by the author in the comparisons made in appendices F and G, H and I. (Editor's note.)

28. The Buffalo cost for current expense per pupil is $461. Letter from Dr. Lillian A. Wilcox to the author, Mar. 7, 1963. The New York State average is $535. The Book of the States, 1960-61 at 297.

29. See app. A for ethnic composition of schools.

30. See map 2.

31. See text following note 14 for official view of this claim.

32. 347 U.S. 483 (1954).

33. See same plans in NAACP, The Jim Crow School North and West (1962).

34. See app. B.

35. Press release Oct. 24, 1962, Buffalo Chapter of NAACP "Extensive School Segregation Charged by NAACP; School Board Urged to Act."

36. See app. B.

37. Ibid.

38. Text at note 8 supra, and following.

39. Buffalo Courier-Express, Oct. 25, 1962, p. 9.

40. Ibid.

41. See map 3.

42. See text at note 35, supra.

43. Buffalo Public Schools, Department of Education, standard form "Reply to A Position Offer."

44. Buffalo Public Schools, Department of Education, 11 Your Schools at Work 4 (1961).

45. The petition for condemnation of the park itself is dated Nov. 30, 1959. A petition for the adjacent property is dated Jan. 30, 1961. Letter from Dr. Lillian A. Wilcox to George J. Alexander, Mar. 7, 1963.

46. Computed from data app. A.

47. See app. B.

48. Letter from Dr. Joseph Manch to Mr. Raphael DuBard, June 19, 1962, reproduced in app. C.

49. The board's report to Commissioner Allen, dated June 26, 1963, on its plans to reduce segregation in the schools is reproduced in app. J.

50. See Evans v. Buchanan, 207 F. Supp. 820 (D Del. 1962) where it was held that the existence of an all Negro school with an all Negro faculty, administered by a separate board, and surrounded by predominantly white areas; raised a rebuttable presumption of unconstitutional action on the part of the school authorities. The court specifically stated that it did not suggest that the presumption only arose from these facts; that an all Negro student body alone might justify the presumption. Other cases suggest less than 100 percent may be considered to be segregation, e.g., 94 percent in Taylor v. Board of Education (New Rochelle), 191 F. Supp. 181 (S.D.N.Y. 1961), 95 percent in Bannister v. Board of Education (New York City), infra note 60.

51. See text following note 28 supra.

52. See map 1 for location of the optional areas that may affect racial composition of schools.

53. Parochial school attendance was found to affect the racial composition of Philadelphia public schools. See Staff Reports to the U.S. Commission on Civil Rights, Civil Rights U.S.A., Public Schools: Cities in the North and West 1962 at 117-18 (hereinafter cited as North and West Report).

54. 1960 Census, PC(1)-34C, table 31. The proportion of parochial and other private school enrollment is approximately the same in Philadelphia as in Buffalo.

55. North and West Report 149-52.

56. 180 N.Y.S. 2d 852 (Dom. Rel. Ct. N.Y.C. 1958). In this case responsibility for the discriminatory imbalance in the distribution of licensed and substitute teachers was disclaimed by the board on the ground that the teachers chose the schools in which they taught. The argument was rejected because the power of assignment was vested by law in the school board and exercised by teachers only in its default. See also Burton v. Wilmington Parking Authority, 365 U.S. 715, (1961) where the Court said: "But no State may effectively abdicate its responsibilities by either ignoring them or by merely failing to discharge them whatever the motive may be." A clear case of unconstitutional choice to be exercised by students was presented by "salt and pepper" desegregation plans which have consistently been held to be invalid. Salt and pepper plans offer all pupils in the school system a choice of a segregated or a biracial school. For discussion of these cases, see: 1961 Education Report 18-19.

57. Goss v. Board of Education (Knoxville), 371 U.S. 811 (1962) and Maxwell v. County Board of Education (Davidson), 371 U.S. 811 (1962), argued Mar. 20 and 21, 1963. (Since the date of writing, the rule has been held to be unconstitutional. Goss v. Board of Education (Knoxville), 373 U.S. 683 (1963). Editor's note.)

58. The Fifth and Fourth Circuits have held the rule unconstitutional in Boson v. Rippy (Dallas), 285 F. 2d 43 (5th Cir. 1960), and Dillard v. School Board (Charlottesville), 308 F.2d 920 (4th Cir. 1962).

59. P. 21. This was one of three grounds for reversal of Goss v. Board of Education (Knoxville), supra note 57, urged by NAACP counsel before the Supreme Court.

60. Bannister v. Board of Education (New York City), 62 Civ. No. 3241, S.D.N.Y. Jan. 10, 1963. The court there said in reply to the school board's contention that discrimination was absent as a matter of law because the options in question were granted to particular neighborhoods: "In cases where the racial imbalance of the neighborhood is less marked such a fact might be persuasive but where, as here, the area in question is over 95 percent Negro, the argument is somewhat like Hobson's choice. Courts are well aware that subtle and sophisticated means are available to foster racial discrimination."

61. 195 F. Supp. 231 (S.D.N.Y. 1961), aff'd, 294 F.2d 36 (2nd Cir. 1961), cert. denied, 368 U.S. 940 (1961).

62. For a more detailed analysis of the New Rochelle case, see North and West Report 33, 66-89.

63. The higher proportion of Negroes in school 54 could also be due to the higher birth rate of Negroes (32.7 live births per 1,000 population) compared with whites (24.1), U.S. Dept. of Health, Education, and Welfare, 1 Vital Statistics of the U.S., sec. 6 and table 6A (1959).

64. See text following note 46 supra.

65. E.g., Brown v. Board of Education, 139 F. Supp. 468 (D. Kan. 1954), Evans v. Buchanan, supra note 50, Bell v. School City of Gary, 213 F. Supp. 819 (N.D. Ind. 1963), but see Branche v. Board of Education (Hempstead), 204 F. Supp. 150, 153 (E.D.N.Y. 1962) where the court said: "The educational system that is thus compulsory and publicly afforded must deal with the inadequacy arising from adventitious segregation; it cannot accept and indurate segregation on the ground that it is not coerced or planned but accepted."

66. An abrupt withdrawal of the option long granted without preparation of the community to accept the change might not have the desired effect. In New Rochelle similar action drove the whites who would have been zoned into the Lincoln school out of the district or into parochial schools leaving Lincoln 100 percent Negro, as before. See North and West Report 52.

67. 347 U.S. 483 (1954).

68. The claim that Claude Clapp was promoted due to NAACP pressure seems to be an exception. See text at note 31, and following note 41, supra.

69. New York Codes, Rules & Regulations, Regulations of the Commissioner of Education, sec. 80.31 (1).

70. New York Education Law, sec. 3006 (3).

71. New York Education Law, sec. 3004.

72. Report from Jack Migliore, Coordinator of Personnel, Buffalo Public Schools, dated July 12, 1963, to Commission on Civil Rights.

73. The staff study showed the institution at which each teacher did both undergraduate and graduate work and the grade to which he was assigned in the school. These data were omitted as irrelevant to the study. No differentiation is made between accredited institutions in licensing; degrees received and hours of credit alone have pertinence.

74. See app. A.

75. The slightly higher percentage of licensed teachers with less than a bachelor's degree probably is due to the fact that many of them were licensed years ago as graduates of a 3-year normal school program for teachers training. Retirement reduces the number each year.

76. 13 Your Schools at Work (1962). For the racial composition of the schools see app. A.

77. Buffalo Board of Education, "Great Cities Program for School Improvement, Report of the Ford Foundation Pilot Project," Jan. 1961 - June 1961, School No. 12. (1961) (mimeographed).

78. Buffalo Evening News, Aug. 11, 1962, p. 18.

79. Board of Education, "Progress Report for 1961-62" describing the Project ABLE Program) (mimeographed 1962).

80. Ibid.

81. Board of Education, "STEP" (mimeographed 1962).

82. See app. B.

83. 12 Your Schools at Work 1 (1961).

84. Memorandum from the Superintendent of Schools Mar. 13, 1961: To all administrators:

> I have, several times, discussed with many of you the importance of the assignment of teachers to schools from the point of view of maintaining, in all schools, a desirable balance between experienced and inexperienced teachers.
>
> At a time when so many of our teachers of long experience are reaching the retirement age, we need to take special care that no school finds itself with a disproportionate number of new teachers. This is especially important in areas of the city where there are large numbers of children, who, because of certain environmental and related factors, require every opportunity possible to help them achieve their fullest potential.
>
> I should like to urge you, therefore, to continue to recommend assignments of teachers to schools on a basis which will assure children, wherever they may reside in the city of a reasonable balance between competent teachers of experience and of newly appointed, well qualified teachers of promise. S. Joseph Manch, Superintendent of Schools.

85. See supra, pp. 5-8.

86. See supra, pp. 17-18.

87. See supra, pp. 23-27.

88. Twelve of the 16 elementary schools lying within the zone are overwhelmingly Negro in enrollment; 3 are predominantly or all-white; 1 is a special school for which no racial data is available. Allen Report, app. A.

89. Figures derived from app. A.

90. Ibid.

91. See supra, p. 21.

92. Interoffice memorandum from Dr. Gerald Leighbody to Dr. Lillian A. Wilcox, Jan. 23, 1963. "As far as I know there has never been any plan to change the district of Clinton Junior High School from its present boundaries when the 9th grade is added in September, 1963. I think we should check on this, however." Later Dr. Wilcox told the author that new boundaries for the Clinton district were being recommended which "may be different from that of School 87." Letter from Dr. Lillian A. Wilcox to the author, Mar. 7, 1963.

93. Conference of Large City Boards of Education of New York State, "An Analysis of the Educational and Financial Needs of Large Cities in New York State with Recommendations for Revision of the State Aid Formula," p. 9 (1962) lists the Buffalo site costs as 19.8 percent of the total school construction costs. The other cities listed had percentages ranging from 5.4 to 15.2 percent with an average of 12.2 percent. This was compared with an average non-city cost of 2.5 percent.

94. The building seems adequate in size and in any event, the property is already owned by the city.

95. The present elementary school zones, for example, could probably be justified as reasonable were it not for their racial effect.

96. Brown v. Board of Education, 347 U.S. 483 (1954).

97. See Blaustein and Ferguson, Desegregation and the Law 145-57 (1957).

98. In Brown v. Board of Education, supra note 96, the Court found that there had been a constitutional deprivation, reasoning, in part, "To separate /Negro children/ . . . from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone." (Emphasis added.) 347 U.S. 483,494 (1954).

99. See Maslow, "De Facto Public School Segregation," 6 Vill. L. Rev. 353 (1961) (suggesting a constitutional duty on school boards to desegregate).

100. Quoted in part in text following note 20 supra.

101. Quoted in part in text following note 19 supra.

102. See text following note 75 supra, and appendices F and G.

APPENDICES

APPENDIX A

SCHOOL POPULATION QUESTIONNAIRE

BUFFALO

CENSUS BY CLASSROOM

Col. (1) School	Col. (2) Room No.	Col. (3) Pupils enrolled	Col. (4) White	Col. (5) Negro	Col. (6) Puerto Rican	Col. (7) All other
1	-	537	424	72	31	10
3	-	455	363	60	6	26
4	-	713	372	298	41	2
6	-	1,081	12	987	82	-
8	-	826	4	821	-	1
9	-	318	318	-	-	-
11	-	386	374	11	-	1
12	-	441	9	432	-	-
15	-	311	43	243	18	7
16	-	243	94	149	-	-
17	-	672	14	658	-	-
18	-	540	503	28	1	8
19	-	641	634	2	-	5
21	-	288	288	-	-	-
22	-	269	269	-	-	-
23	-	516	515	-	-	1
24	-	58	42	16	-	-
25	-	96	96	-	-	-
26	-	419	404	6	4	5
27	-	245	245	-	-	-
28	-	551	504	42	2	3

SCHOOL POPULATION QUESTIONNAIRE

BUFFALO

CENSUS BY CLASSROOM

Col. (1) School	Col. (2) Room No.	Col. (3) Pupils enrolled	Col. (4) White	Col. (5) Negro	Col. (6) Puerto Rican	Col. (7) All other
29	-	510	507	-	3	-
30	-	189	189	-	-	-
31	-	998	72	926	-	-
32	-	257	4	242	11	-
33	-	348	317	-	21	10
34	-	275	232	39	4	-
36	-	402	342	10	14	36
37	-	837	61	763	7	6
38	-	475	460	12	-	3
39	-	716	95	621	-	-
40	-	325	289	35	1	-
41	-	669	16	653	-	-
42	-	460	449	8	2	1
43	-	664	658	6	-	-
44	-	366	362	2	-	2
45	-	570	566	1	-	3
47	-	589	3	586	-	-
48	-	803	53	745	2	3
49	-	155	150	-	-	5
51	-	360	357	3	-	-
52	-	698	695	2	1	-

SCHOOL POPULATION QUESTIONNAIRE

BUFFALO

CENSUS BY CLASSROOM

Col. (1) School	Col. (2) Room No.	Col. (3) Pupils enrolled	Col. (4) White	Col. (5) Negro	Col. (6) Puerto Rican	Col. (7) All other
53	-	906	21	885	-	-
54	-	367	221	144	-	2
56	-	360	356	2	-	2
57	-	186	186	-	-	-
59	-	498	360	138	-	-
60	-	650	645	5	-	-
61	-	503	501	2	-	-
61 Annex	-	113	111	2	-	-
62	-	547	543	4	-	-
63	-	375	375	-	-	-
64	-	270	269	-	-	1
65	-	447	429	15	3	-
66	-	403	403	-	-	-
67	-	323	322	1	-	-
68	-	369	369	-	-	-
69	-	408	406	-	1	1
69 Annex	-	19	19	-	-	-
70	-	317	317	-	-	-
71	-	342	316	23	3	-
72	-	327	325	-	2	-
73	-	336	185	43	75	32

SCHOOL POPULATION QUESTIONNAIRE

BUFFALO

CENSUS BY CLASSROOM

Col. (1) School	Col. (2) Room No.	Col. (3) Pupils enrolled	Col. (4) White	Col. (5) Negro	Col. (6) Puerto Rican	Col. (7) All other
74	-	660	2	658	-	-
75	-	649	4	645	-	-
76	-	419	338	24	12	45
77	-	391	382	1	3	5
78	-	468	459	8	-	1
79	-	573	524	45	4	-
80	-	341	339	2	-	-
81	-	503	503	-	-	-
82	-	430	387	40	-	3
83	-	168	168	-	-	-
84	-	104	88	14	1	1
84 Annex	-	34	30	3	1	-
85	-	209	187	22	-	-
86	-	326	326	-	-	-
88	-	140	140	-	-	-
90	-	459	439	16	-	4
93	-	198	-	198	-	-
I.H.M.	-	76	72	3	1	-
TOTALS		34,486	22,472	11,422	357	235

APPENDIX B

Statement of the Buffalo Branch, National Association for the Advancement of Colored People before the Board of Education, Buffalo, New York, October 24, 1962.

The United States Supreme Court, in its historic decision of May 17, 1954, ruled that racial segregation per se in public education was discriminatory and, therefore, unconstitutional. The Court stated

> We must consider public education in the light of its full development and its present place in American life throughout the nation....
>
> Today, education is perhaps the most important function of state and local governments.... It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education....
>
> We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.
>
> ....To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone....
>
> We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal....

Although the specific cases before the United States Supreme Court concerned segregation sanctioned or permitted by State law, the Court's decision makes segregation per se in public education invalid throughout the United States.

Since the May 17th decision, educators and social scientists have become increasingly aware that the harmful effects of racial segregation in public education on Negro children--feelings of inferiority, lowered motivation and lowered educational achievement so clearly stated by the

Supreme Court--are substantially the same whether segregated schools are required by law or exist in fact. Indeed, there can no longer be any doubt that the problems resulting from racially homogeneous, de facto segregated schools in the North reflect all of the complex psychological and educational problems inherent in any form of segregated public education.

The impact of racially segregated schools on white children is equally important although less obvious. The total effect of segregation may be expressed, for example, by confusion in the child's moral sense of what is taught and what seems to be practiced, as well as the development of unrealistic racial attitudes. Equally important is the fact that racially homogeneous public schools deprive white children of the opportunity of growing and learning in a multi-racial educational setting which reflects the world in which they live.

Finally, de facto segregated public schools are inconsistent with the democratic objectives of public education and violate in spirit and in reality the democratic principles basic to American society.

Extent of De Facto Public School Segregation in Buffalo

The statewide racial census of elementary schools released publicly on July 30, 1962, by the New York State Department of Education reveals that 17 de facto segregated, predominantly Negro elementary schools are being maintained in Buffalo. Negro pupils comprise between 98 percent and 100 percent of the student enrollment at nine schools, between 90 percent and 95 percent at five schools, between 78 percent and 90 percent at two schools, and 61 percent at one school.

The extent of existing school segregation in Buffalo, however, is even more sharply focused after an examination of the racial composition of all the elementary schools in this city.

Out of a total of 80 elementary schools, 61 schools or 80 percent are virtually or predominantly Negro or white. Only 16 schools or 20 percent are racially integrated. It is alarming to find that 82 percent of the total elementary school enrollment, 28,158 Negro and white children, attend racially separate schools. Only 6,252 Negro and white students or 18 percent of the total enrollment attend integrated grade schools.

10,426 or 83 percent of a city-wide total of 11,869 Negro pupils attend totally or predominantly Negro schools; 210 Negro pupils or 2 percent attend predominantly white schools. Only 1,233 Negro pupils or 10 percent attend integrated schools.

17,092 or 76 percent of a city-wide total of 22,541 white pupils attend totally or predominantly white schools; 430 white pupils or 2 percent attend predominantly Negro schools. Only 5,019 white pupils or 22 percent attend integrated schools.

Thus, it is clear that the Buffalo elementary school system is rigidly segregated. The pattern of segregation on the elementary school level is then continued through the secondary schools.

Desegregation, Educational Standards, and Special Educational Programs

It is frequently suggested that equal educational standards will result in equal educational standards regardless of the racial composition of the schools. The United States Supreme Court overruled the separate-but-equal doctrine implicit in this view and stated clearly that "racially separate schools are inherently unequal."

De facto segregated schools in reality do not and cannot provide equal educational standards. Overcrowding, a high turnover of teachers and a disproportionate number of inexperienced teachers, for example, almost invariably accompany the fact of segregation.

There is also a tendency to associate certain educational problems of so-called "culturally deprived" children with desegregation. This view reflects two misconceptions. First, the problems resulting from segregated schools affect Negro children of all cultural, educational, and economic backgrounds. As long as Negro families continue to be restricted in the rental and purchase of homes solely on the basis of race rather than economic ability, then all Negro children will be further restricted by segregated and inferior schools. Second, raising educational standards and providing special educational programs are not substitutes for eliminating existing segregation.

The NAACP heartily supports the challenging educational programs that have been initiated by the Superintendent of Schools and the Board of Education in the Buffalo public schools. The special program at P.S. 12 now expanded to two predominantly white and two predominantly Negro schools (the Four Schools Improvement Program), the School of Employment Project (STEP) designed to encourage prospective "dropouts" to remain in school, and Project ABLE to identify and stimulate potentially talented junior high school youngsters are extremely valuable and effective programs. We urge that these programs be continued and expanded wherever necessary to meet the educational needs of all children. We also commend the steps that have been taken by the Superintendent of Schools to achieve an equitable balance of experienced and new teachers in every school.

At the same time, the Board must be aware of the growing array of evidence that children who are subjected to a segregated school environment generally fail to achieve the inherent talent and ability which lies within them, despite the effort and ability put into the educational program. Where the incentive and motivation is low, and this is the inevitable result of segregation, the achievement will tend to fall below the innate potential of the child.

There is no choice then between improving the quality of education, special educational programs, or eliminating segregation. Each must accompany the other.

De Facto School Segregation and the Policy of the State of New York

De facto segregation in public schools basically result from racial discrimination in housing and segregated residential areas. The development of racially homogeneous schools, however, has often been extended by traditional methods of zoning or feeder patterns of elementary to secondary schools, resulting in even greater containment of Negro and white youngsters within separate, segregated, residential areas. But more important than the question of intent or the causes of segregation is the fact that racially separate schools exist.

The Board of Education of the City of New York, in 1954, first recognized the May 17, 1954, decision of the United States Supreme Court "as a decision which applied not only to those cases in litigation, but also as a challenge to Boards of Education . . . in northern as well as southern communities, to reexamine the racial composition of the schools within their respective systems in order to determine whether they conform to the standards stated clearly by the Court."

The State of New York, through the Board of Regents of the University of the State of New York and the State Department of Education, is clearly committed to the elimination of de facto segregation in the public schools.

The Board of Regents, on January 28, 1960, recognized the psychological and educational damage of racially homogeneous schools and cited the responsibility of all citizens to reexamine the schools within their local school systems in order to determine whether they conform to the meaning of the May 17th decision. The Board of Regents stated, "Public education in a /racially homogeneous/ setting is socially unrealistic, blocks the attainment of the goals of democratic education, and is wasteful of manpower and talent, whether this situation occurs by law or by fact."

Recognizing the educational undesirability of schools "which are indeed segregated," the Commissioner of Education, on October 1, 1961, called for the elimination of existing

segregation. "Within each community," he stated, "a solution can be achieved when the issues are understood and the situation realistically reviewed. This suggests discussion and consideration at regular or special meetings of /each/ Board of Education. The State Education Department will make members of the staff available . . . as consultants to aid in this process of review, evaluation and planning. Both present status and future growth and development must be considered.

Desegregation and the Neighborhood School

Several basic desegregation plans have been successfully used in northern school systems to eliminate existing segregation and to prevent the creation of new schools segregated in fact. Contrary to widespread misinformation and misrepresentations, all of these methods, with one exception, adhere to the concept of the neighborhood school. Rezoning to achieve greater desegregation, for example, can be accomplished within the neighborhood school concept. The "neighborhood" itself, however, may encompass a new geographical area including white and Negro residential areas instead of "containing" a Negro neighborhood or a white neighborhood.

The NAACP does not propose that every school in Buffalo include a fixed percentage or ratio of Negro and white children. We do urge, however, that the entire school system be reexamined in order to achieve maximum desegregation. This, in turn, will ultimately be dependent upon school capacity, the racial composition of the school population and residential patterns, anticipated changes in housing patterns, and other factors. But the experience of many northern school systems indicates that maximum desegregation can be achieved by adopting, not abandoning, the neighborhood school. The basic concept of the neighborhood school, in fact, is not sacrosanct or so rigid as to be incapable of change. Nor was it ever intended to justify or to excuse existing segregation.

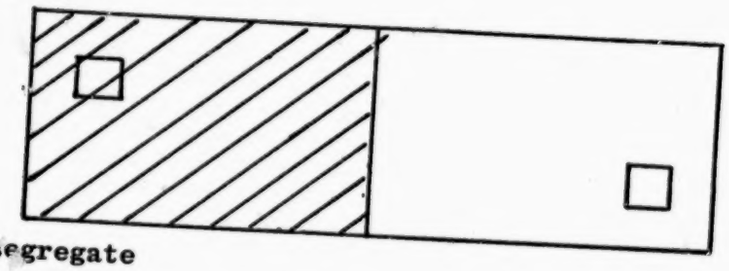
Basic Approaches to Desegregation

The following approaches used alone or in combination have proven to be effective in achieving maximum desegregation. Each approach, of course, must be adapted to specify schools, taking into consideration all the necessary administrative factors involved.

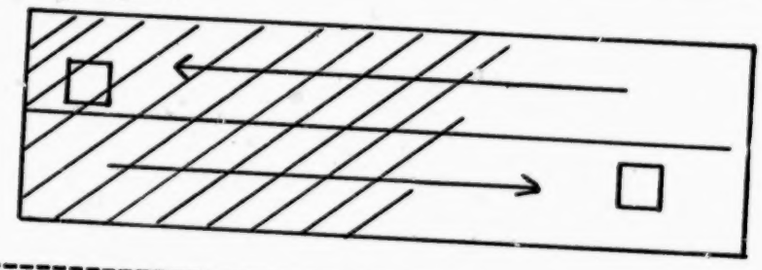
1. Rezoning

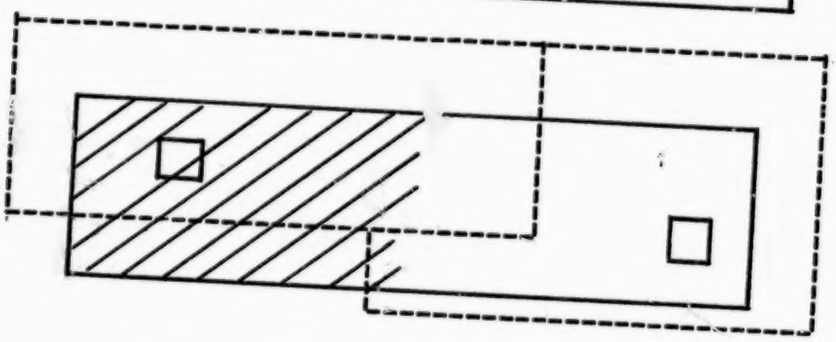
The zone lines of elementary or secondary schools can result in extending segregation in the schools by "containing" segregated residential areas or they can be drawn to achieve greater desegregation.

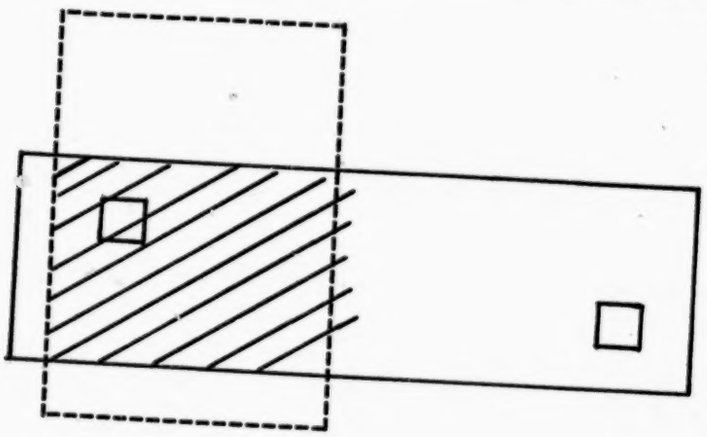
To Segregate



To Desegregate

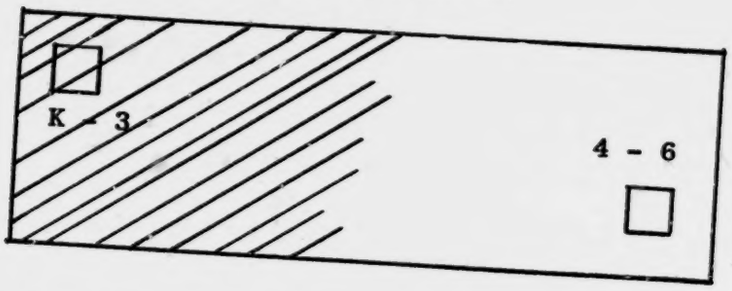






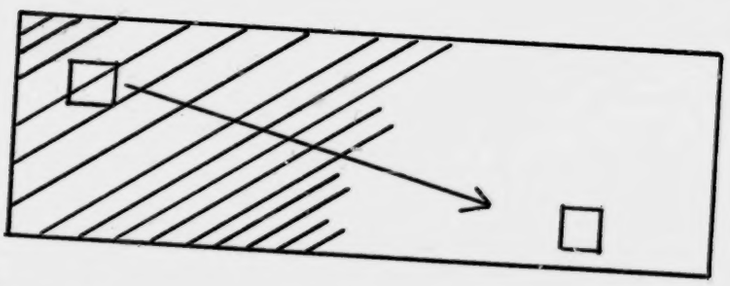
2. The "Princeton Plan"

This plan, first used in Princeton, New Jersey, after World War II, combines two or three schools in adjacent zones into a single zone and all children in the new zone attend school on the basis of grade assignment. One school, for example, contains grades kindergarten through three and the second school houses grades four through six. Other grade combinations are possible. The result is desegregation despite rigid housing segregation.



3. Reorganization of Schools

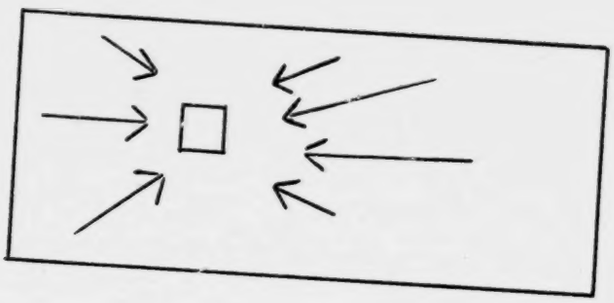
School officials have sometimes found that closing a school, converting an elementary school to a junior high school serving a larger area, or other plans which reorganize the use of schools may result in greater desegregation.



4. Changing the Feeder Pattern of Elementary to Secondary Schools

The predominantly Negro elementary schools tend to be assigned largely to certain secondary schools. The pattern of containment and segregation established on the elementary school level is thereby extended to the secondary schools. Changing the feeder pattern can result in greater desegregation.

To Segregate: Containment



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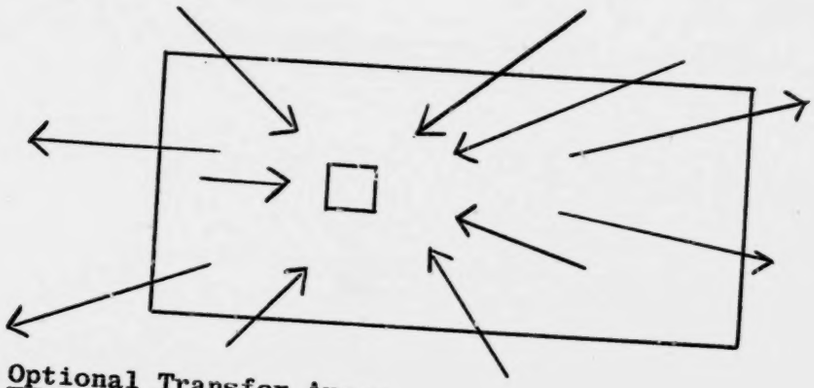
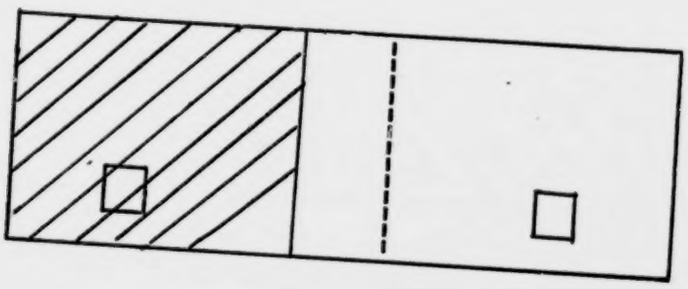


5. Optional Transfer Areas

Eliminating optional transfer areas which extend segregation by permitting white parents to choose between predominantly Negro or white schools can help to achieve greater desegregation.

Extending Segregation



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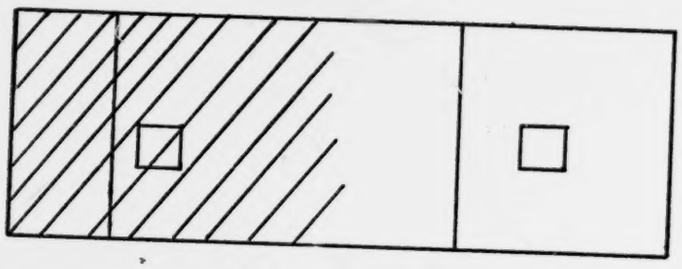
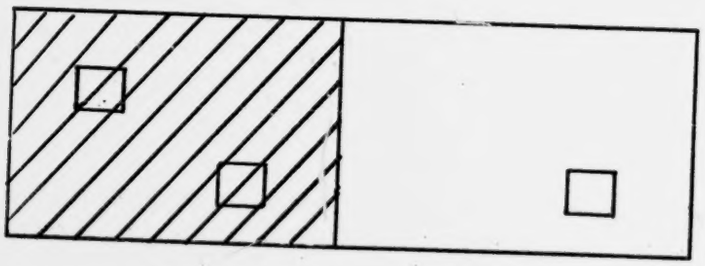


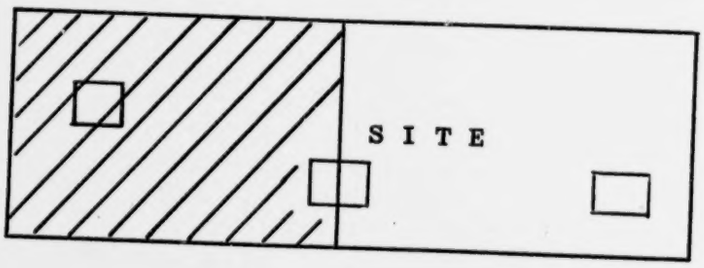
6. Site Selection and Building Additions to Existing Schools

Site selection and zoning for newly established schools offers a special opportunity to achieve racially integrated schools.

To Segregate



To Desegregate



7. Open Enrollment

Open enrollment, whereby students are assigned and transported from segregated schools to underutilized, predominantly white schools, is the only plan which is not within the framework of the neighborhood school.

Wherever other plans are possible, open enrollment has proven to be the least effective plan of desegregation. It is the least effective approach simply because it leaves intact schools that are still segregated but with decreased enrollments. It has been effective, however, in achieving greater desegregation when schools located in the hearts of vast segregated residential areas cannot be desegregated by rezoning, the Princeton Plan, or any other approach. The New York City Commission on Human Relations, an official city agency, recently reported that youngsters who have transferred under open enrollment show marked improvement in attendance and efficiency and more interest in school work.

Recommendations

Extensive and rigid racial segregation exists in the Buffalo public elementary school system in direct violation of the May 17, 1954, decision of the United States Supreme Court and the official policy of the State of New York. The National Association for the Advancement of Colored People strongly urges the Board of Education to fulfill its educational and legal responsibilities by reexamining the entire school system in order to provide maximum desegregation in the elementary and secondary schools.

The NAACP specifically urges the Board of Education: (1) to adopt officially a policy which recognizes the educational undesirability of de facto segregated schools and is committed to eliminating segregation to the fullest extent possible; (2) to formulate and implement a plan to achieve maximum desegregation throughout the school system no later than September 1963; and (3) to ensure that the zoning and feeder patterns of the new junior high schools will provide maximum desegregation.

We are confident that with the positive and constructive leadership of the Board of Education, Buffalo offers a unique opportunity to provide equal educational opportunities for all children.

SUMMARY
ELEMENTARY SCHOOLS
BUFFALO, NEW YORK

		Schools No.	Schools (% of total No.)	Enrollment No.	Enrollment (% of total No.)
I.	Negro Schools	17	(21.3%)	10,856	(31.5%)
	90% - 100% Negro	14	(17.5%)	9,586	
	98% - 100%	9		5,610	
	90% - 95%	5		3,976	
	60% - 70% Negro	3	(3.8%)		
	70% - 80% Negro	2		1,027	
	60% - 70% Negro	1		243	
II.	White Schools	47	(58.7%)	17,302	(50.3%)
	100% White	19	(23.7%)	5,152	
	95%-99% White	28	(35.0%)	12,150	
III.	Integrated Schools	16	(20%)	6,252	(18.2%)

	No. Schools	Total	Negro/P.R.	White/Other
1% - 10% Negro	5	2,375	193	2,182
11% - 20%	6	1,905	285	1,620
21% - 30%	2	556	154	402
31% - 40%	2	703	262	441
41% - 50%	1	713	339	374
		6,252	1,233	5,019

Enrollment
Elementary Schools

	Total enrollment	Negro/P.R. No. (%, total Negro enroll.)	White/Other No. (%, total White enroll.)
Total enrollment	34,410	11,869	22,541
Negro schools Total	10,856	10,426 (88%)	430 (2%)
90%-100% Negro	5,610	5,536 (47%)	74
60%-90% Negro	5,246	4,890 (41%)	356
White schools 95%-100% White	17,302	210 (2%)	17,092 (76%)
Integrated schools 1%-50% Negro	6,252	1,233 (10%)	5,019 (22%)

Segregated Negro Elementary Schools
Total Number Schools: 17

90%-100% Negro
Total No. Schools - 14

98%-100% Negro: Total - 9

	No. Pupils	% Negro
P.S. 8	826	99%
P.S. 12	441	98%
P.S. 17	672	98%
P.S. 41	669	98%
P.S. 47	589	99.5%
P.S. 53	906	98%
P.S. 74	660	99.7%
P.S. 75	649	99.4%
P.S. 93	198	100%
	5,610	

90%-95% Negro
Total No. Schools - 5

P.S. 6	1,081	91% (Negro & P.R.
P.S. 31	998	93%
P.S. 32	257	94%
P.S. 37	837	91%
P.S. 48	803	93%
	3,976	

70%-87% Negro
Total No. Schools - 2

P.S. 39	716	87%
P.S. 15	311	78% (Negro & P.R. 84

60%-70% Negro
Total No. Schools - 1

P.S. 16	243	61.3%

Total No. Pupils 10,856

Segregated White Elementary Schools
Total Number Schools: 47

100% White
Total No. Schools - 19

	No. Pupils
P.S. 9	318
P.S. 21	288
P.S. 22	269
P.S. 23	516
P.S. 25	96
P.S. 27	245
P.S. 30	189
P.S. 49	155
P.S. 57	186
P.S. 63	375
P.S. 64	270
P.S. 66	403
P.S. 68	369
P.S. 69 Annex	19
P.S. 70	317
P.S. 81	503
P.S. 83	168
P.S. 86	326
P.S. 88	140
TOTAL	5,152

Segregated White Elementary Schools

95%-99% White
Total No. Schools - 28

	No. Pupils
P.S. 11	386
P.S. 18	540
P.S. 19	641
P.S. 26	419
P.S. 29	510
P.S. 33	348
P.S. 38	475
P.S. 42	460
P.S. 43	664
P.S. 44	366
P.S. 45	570
P.S. 51	360
P.S. 52	698
P.S. 56	360
P.S. 60	650
P.S. 61	503
P.S. 61 Annex	113
P.S. 62	547
P.S. 65	447
P.S. 67	323
P.S. 69	408
P.S. 71	342
P.S. 72	327
P.S. 77	391
P.S. 78	468
P.S. 80	341
P.S. 84 Annex	34
P.S. 90	459
TOTAL	12,150

(White/other 11,940
Negro/P.R. 210)

Integrated Elementary Schools
Total Number Schools: 16

		Pupils Negro/P. R. Number	Percentage	Pupils White/Other Number	Percentage
1%-10% Negro					
	P.S. 36	24	6%	378	94%
	P.S. 28	44	8%	507	92%
	P.S. 76	36	9%	383	91%
	P.S. 79	49	9%	524	91%
	P.S. 82	40	9%	390	91%
		193		2,182	
11%-20% Negro					
	P.S. 85	22	11%	187	89%
	P.S. 40	36	11%	289	89%
	P.S. 84	15	14%	89	86%
	P.S. 3	66	14.5%	389	85.5%
	P.S. 34	43	16%	232	84%
	P.S. 1	103	19%	434	81%
		285		1,620	
21%-30% Negro					
	P.S. 24	16	28%	42	72%
	P.S. 59	138	28%	360	72%
		154		402	
31%-40% Negro					
	P.S. 73	118	35%	218	65%
	P.S. 54	144	39%	223	61%
		262		441	
41%-50% Negro					
	P.S. 4	339	48%	374	52%
	TOTAL NO.	1,233		5,019	

Negro/P.R.	1,233
White/Other	5,019
Total	6,252

APPENDIX C

June 19, 1962

Mr. Raphael DuBard
257 Laurel Street
Buffalo 8, New York

Dear Mr. DuBard:

With this letter I am sending you a packet of representative materials which we use to carry out the expressed policy of the Board of Education to insure for every child equal opportunity to achieve his fullest potential regardless of race, creed or color.

These are:

Who Is My Neighbor? distributed in 1946

Guidance Policy in Training and Placement in the Buffalo Public Schools, May 1949

The Community Relations Policy in the Buffalo Public Schools - 1952

Teacher Pupil Relationships - July 1960

Description of the Ford Foundation Project at School 12. (Developing an educational program adapted to the needs of the culturally different.)

STEP - a program to encourage 15 year olds who are potential drop-outs to remain in school.

ABLE - a program to encourage pupils from culturally deprived or low socio-economic levels to complete secondary education.

Challenging Programs in the Buffalo Public Schools further describes Projects STEP and ABLE.

Each year a booklet Goals of the Buffalo Public Schools is prepared. The current issue 1961-1962 includes many goals related to Human Relations. (A marked copy is included for your use.)

Marked copies of selected issues of Your Schools At Work. These stories bring to the attention of our school staff, the philosophy of equal opportunity for all.

In addition to this sampling of materials, there are numerous other means which we have employed that should be mentioned to give a more complete picture of our efforts to

carry out the Human Relations policies of the Board of Education. Some of the other means are indicated very briefly as follows:

We make certain that all children are encouraged to participate in special programs such as speaking contests, essay contests, music festivals, and athletic activities.

The observance of Brotherhood Week is carried out in all schools to emphasize practices that are in current use throughout the year. The Buffalo Public Schools were cited in February 1962 by the National Conference of Christians and Jews "for their initiative and creativeness in promoting brotherhood education in every area of school life." In the school year 1960-61 Freedoms Foundation of Valley Forge cited the Buffalo Public School System "for its exceptional efforts in helping to bring about better understanding of the American way of life among its pupils." Twenty-five outstanding citizens of Buffalo submitted statements indicating that in Buffalo "every effort is made to help the children to work harmoniously with all their classmates regardless of any difference of national origin, color of skin or religious beliefs."

In 1948, the Community Relations Committee of the Board of Education was established, having as members representatives from many areas of the school staff. This committee was given definite responsibility in the promotion of community understanding. In carrying out its assignment, it has prepared publications such as the Community Relations Policy of the Board of Education, helped organize Human Relation courses for teachers, has examined and recommended aids such as the Do's and Don't's, and has played a quiet but effective role in promoting good Human Relations (See Your Schools At Work, May-June 1962, p. 3).

Courses in Human Relations for teachers have been established through the efforts of the Buffalo Public Schools and we encourage teachers to attend. The first course in Human Relations for teachers was organized as one project of the Community Relations Committee and was carried on in School 6 in the school year 1949-1950. From this pilot class, additional courses were given in several public schools and later Human Relations courses were set up at State Teachers, the University of Buffalo, and Canisius College. The Human Relations Center at the University of Buffalo which is presently flourishing in an outcome of this first course carried on at School 6. Teachers are encouraged to attend such courses and each year teachers are awarded scholorships through the NCCJ to participate in summer courses in Human Relations.

We follow a policy of assigning a balanced teaching staff consistent with the supply of teachers, so that schools have a fair representation of experienced teachers and new teachers of promise. See Superintendent's directives (2) in packet.

We adhere to a firm but fair policy on pupil behavior. (Copy also in packet.)

We have developed and follow a sound case study procedure in dealing with children who have problems of adjustment. (See address by Superintendent "The Challenge of Pupil Maladjustment", in packet.)

A careful study precedes any establishment of new school districts or redistricting of school boundaries to be certain that the best possible pattern of integration may be effected despite the difficult problems which may be posed by housing. For example, when the districts of Bennett, Lafayette, and Riverside High School were changed, a study made by the State Commission Against Discrimination concluded that as a result "actually a better mixture of ethnic groups existed." Quoted from American Civil Liberties Union Report 1957-1958.

Furthermore, the school district for Fillmore Junior High School to be opened in September 1962 was carefully designed to provide for an integrated student body.

Our free and open competitive examinations for teaching and administrative positions, and the appointment of new staff in strict rank order makes it possible for qualified individuals to achieve permanent positions and promotions without regard to race, creed, color, or national origin. (See newspaper clipping June 13, 1962.)

Many of the school staff are members of, and participate actively in, Human Relations organizations such as the NCCJ, the Urban League, the Anti-Defamation League of B'nai B'rith, the NAACP, and the Council on Community Understanding.

This is by no means a complete picture of our efforts. We endeavor to develop a sensitivity among our staff members in the area of Human Relations through seminars for the members of the staff. Much has also been done through speaking engagements, panel discussions, the use of TV and radio programs, and person-to-person communication.

We also feel that the Buffalo Public Schools have been a positive and constructive influence in developing a wholesome climate in the field of Human Relations among the citizens of Buffalo. This has been accomplished by our work with the children in our schools and with school-community groups on a city-wide basis.

We share your concern that every child will have his opportunity in the Buffalo Public Schools to develop his abilities to the utmost. We appreciate your interest and your cooperation in helping us to achieve this goal.

Yours sincerely,

Superintendent of Schools

APPENDIX D

OPTIONAL AREAS

Racial Composition of Schools

Location	Optional Area Census track description	District Schools White	Negro	Puerto Rican	Other	Optional Schools Number	White	Negro	Puerto Rican	Other
68	Less than 5% Negro	369	--	--	--	78	459	8	--	1
71	Less than 5% Negro	316	23	3	--	62	543	4	--	--
64	Less than 5% Negro	269	--	--	1	66	403	--	--	--
17a	5-29% Negro	14	658	--	--	54	221	114	--	2
17b	Less than 5% Negro	14	658	--	--	74	2	658	--	--
43	Less than 5% Negro	658	6	--	--	56	356	2	--	2
57	Less than 5% Negro	186	--	--	--	16	94	149	--	--
31	Less than 5% Negro	72	926	--	--	44	362	2	--	2
40	5-29% Negro	289	35	1	--	90	439	16	--	4
29	Less than 5% Negro	507	--	3	--	40	289	35	1	--
						75	4	645	--	--
						72	325	--	2	--

Source of data:

Location of optional areas shown on map of Buffalo: Board of Education, Elementary School Districts.

Racial composition of school districts, 1960 census track data.

Racial composition of schools, appendix A.

APPENDIX E

QUALIFICATIONS OF TEACHERS IN SELECTED SCHOOLS

School Number	Teachers Total	No. of Teachers		Yrs. of Experience		Age of Teachers		No. with Master's Degrees		30 Hours of Graduate Work		No. With Bachelor's Degrees		Less Than B. A. Degree		Percent of Teachers
		Temp.	Licensed	Temp.	Licensed	Temp.	Licensed	Temp.	Licensed	Temp.	Licensed	Temp.	Licensed	Temp.	Licensed	Temp.
8	41	14	27	4	8	41	36	0	5	0	0	10	18	4	4	34
12	24	5	19	9	15	42	42	0	2	1	0	1	8	3	9	21
31	57	20	37	5	20	38	46	1	2	0	1	15	20	4	14	35
32	18	3	15	6	13	44	39	0	0	0	1	2	11	1	3	17
38	31	1	30	1	22	23	47	0	6	0	3	1	13	0	8	3
40	28	2	26	8	12	40	44	0	2	0	9	1	11	1	4	7
41	27	6	21	5	20	39	46	1	0	1	2	3	12	1	7	22
42	38	7	31	4	22	36	45	0	2	0	3	4	17	3	9	18
43	38	8	30	4	15	41	40	0	7	1	4	6	14	1	5	21
44	40	2	38	2	18	37	47	0	7	0	0	2	15	0	16	5
45	36	2	34	16	17	45	42	0	1	0	1	0	24	2	8	6
47	30	3	27	7	17	35	46	1	4	0	2	2	16	0	5	10
48	31	4	27	5	15	44	40	0	3	0	2	2	16	2	6	13
53	46	14	32	5	16	36	41	0	3	1	1	10	22	3	6	30
75	31	10	21	6	13	45	42	0	1	1	1	6	12	3	7	32
76	39	2	37	8	26	57	51	0	3	0	1	1	17	1	16	5
77	34	3	31	1	19	29	43	0	3	0	3	3	13	0	12	9
81	39	2	37	22	24	59	49	0	7	0	7	2	15	0	8	5
82	40	6	34	7	28	38	51	0	8	0	2	3	10	3	14	15
Total	668	114	554	125	340			3	66	5	43	74	284	32	161	16

Source:

Staff Study May 1962
Department of Education
Buffalo Public Schools

APPENDIX F

TEMPORARY AND LICENSED TEACHERS ASSIGNED TO SCHOOLS ENROLLING 89 PERCENT OR MORE OTHER PUPILS *

School	Number of Teachers			Percent	Enrollment
	Total	Temporary	Licensed	Temporary	Percent Other
38	31	1	30	3	97
40	28	2	26	7	89
42	38	7	31	18	98
43	38	8	30	21	99
44	40	2	38	5	99
45	36	2	34	6	99
76	39	2	37	5	91
77	34	3	31	9	99
81	39	2	37	5	100
82	40	6	34	15	91
Total	363	35	328	9.6	
Average	36.3	3.5	32.8		
Median		2	32.5	6.5	
Range		1-8	26-38	3-21	

* Other than Negro and Puerto Rican pupils.

Source:

Staff Study, May 1962

Department of Education, Buffalo Public Schools (app.E)

School Population Questionnaire

University of the State of New York

State Department of Education (app. A)

APPENDIX G

TEMPORARY AND LICENSED TEACHERS ASSIGNED TO SCHOOLS ENROLLING 93 PERCENT OR MORE NEGROES AND PUERTO RICANS

School	Number of Teachers			Percent Temporary	Enrollment % Negro & Puerto Rican
	Total	Temporary	Licensed		
8	41	14	27	34	99
12	24	5	19	21	98
31	57	20	37	35	93
32	18	3	15	17	98
41	27	6	21	22	98
47	30	3	27	10	99
48	31	4	27	13	93
53	46	14	32	30	98
75	31	10	21	32	99
Total	305	79	226	26	
Average	34	8.8	25.1		
Median		6.0	27.0		
Range		3-20	15-37		

Source:

Staff Study, May 1962

Department of Education, Buffalo Public Schools (app. E)

School Population Questionnaire

University of the State of New York

State Department of Education (app. A)

APPENDIX H

EDUCATIONAL QUALIFICATIONS TEACHERS ASSIGNED TO SCHOOLS ENROLLING 89 PERCENT OR MORE OTHER PUPILS

School	Number of Teachers	Master's Degree	30 Hours	B.A. Degree	Le
38	31	6	3	14	
40	28	2	9	12	
42	38	2	3	21	1
43	38	7	5	20	
44	40	7	0	17	1
45	36	1	1	24	1
76	39	3	1	18	1
77	34	3	3	16	1
81	39	7	7	17	
82	40	8	2	13	1
Total	363	46	34	172	11
Percent	100	12.7	9.4	47.4	30.6

Source: Staff Study, May 1962, Department of Education, Buffalo Public Schools (app. E)

School Population Questionnaire, University of the State of New York, State Department of Education (app. A)

APPENDIX I

EDUCATIONAL QUALIFICATIONS TEACHERS ASSIGNED TO SCHOOLS ENROLLING 93 PERCENT OR MORE NEGROES AND PUERTO RICANS

School	Number of Teachers	Master's Degree	30 Hours	B.A. Degree	Less
8	41	5	0	28	8
12	24	2	1	9	12
31	57	3	1	35	18
32	18	0	1	13	4
41	27	1	3	15	8
47	30	5	2	18	5
48	31	3	2	18	8
53	46	3	2	32	9
75	31	1	2	18	10
Total	305	23	14	186	82
Percent	100	7.5	4.6	61.0	26.9

Source: Staff Study, May 1962, Department of Education, Buffalo Public Schools (app. E)

School Population Questionnaire, University of the State of New York, State Department of Education (app. A)

Addenda

I

In its May 1963 meeting the Buffalo School Board considered proposals A, B, and C, Plans for Utilization of School Space. All three were tabled at that meeting. Subsequently at its meeting of August 28, the board approved proposal A which states:

A. ADJUSTMENT: SCHOOLS 15, 37, 76

School 37 is greatly in need of classroom space. To make available additional classrooms at School 37, it is proposed that the following change in pupil assignment be considered for September 1963:

All 4th, 5th, and 6th grade pupils living in the district of School 15, west of Michigan Avenue, (who would normally attend School 37 in September 1963) be assigned to School 76.

(School 15, a primary school serving Kindergarten through Grade 3, is presently an annex to School 76. Thus, the assignment of the designated group of children to School 76 would continue their original membership as part of School 76.)

Approved by the Board August 28, 1963.

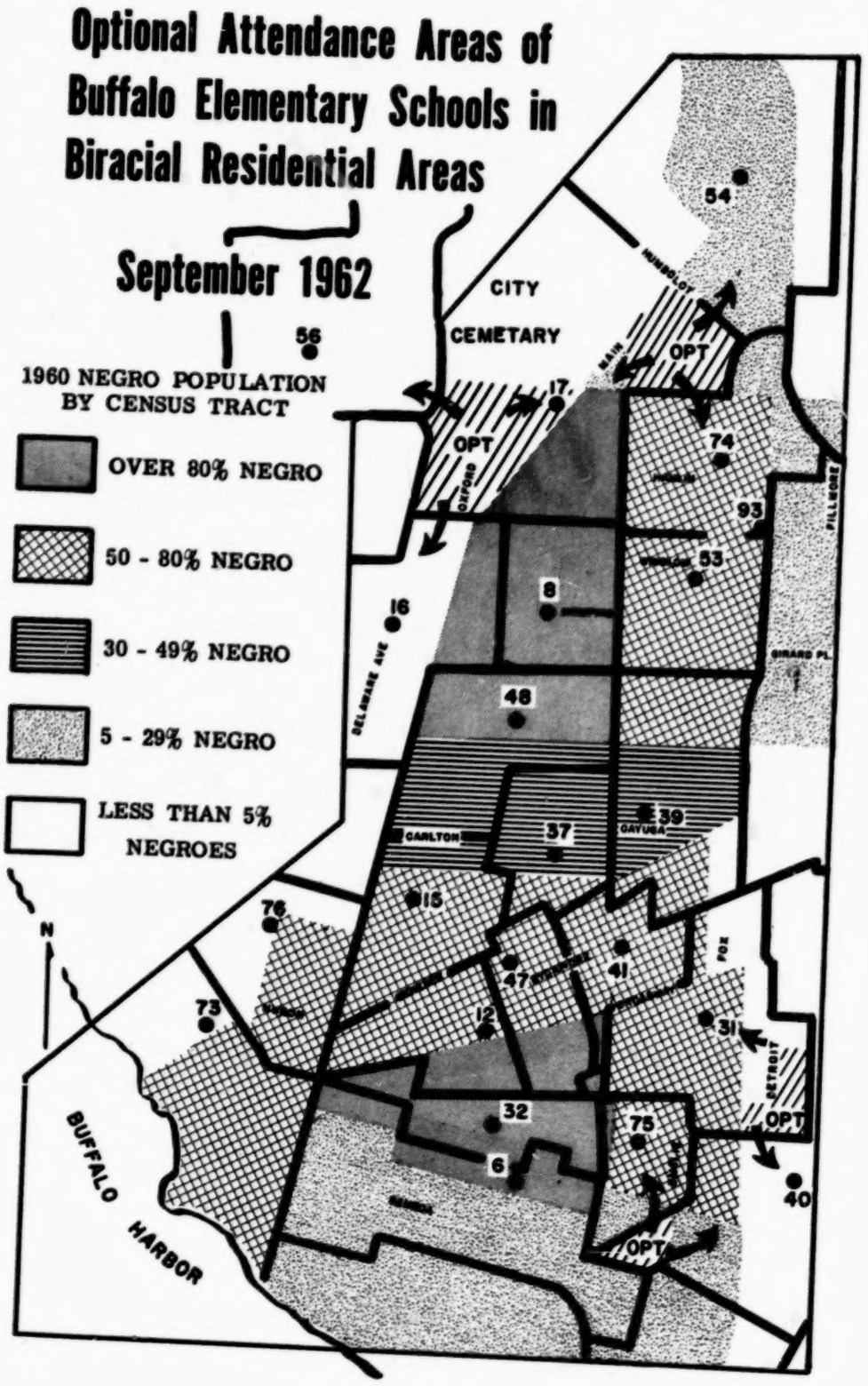
The adjustment resulted in shifting approximately 120 to 130 fourth, fifth, and sixth grade pupils from the overcrowded School 37 to the less crowded School 76. The majority of the pupils shifted were nonwhite. The other two proposals remained tabled.

II

In a statement attributed to her by the Buffalo News, November 21, 1963, Mrs. Alfreda W. Slominski, a newly appointed school board member, advocated that "Buffalo stick to the traditional neighborhood schools." She reportedly stated being opposed to transferring pupils to improve racial balance.

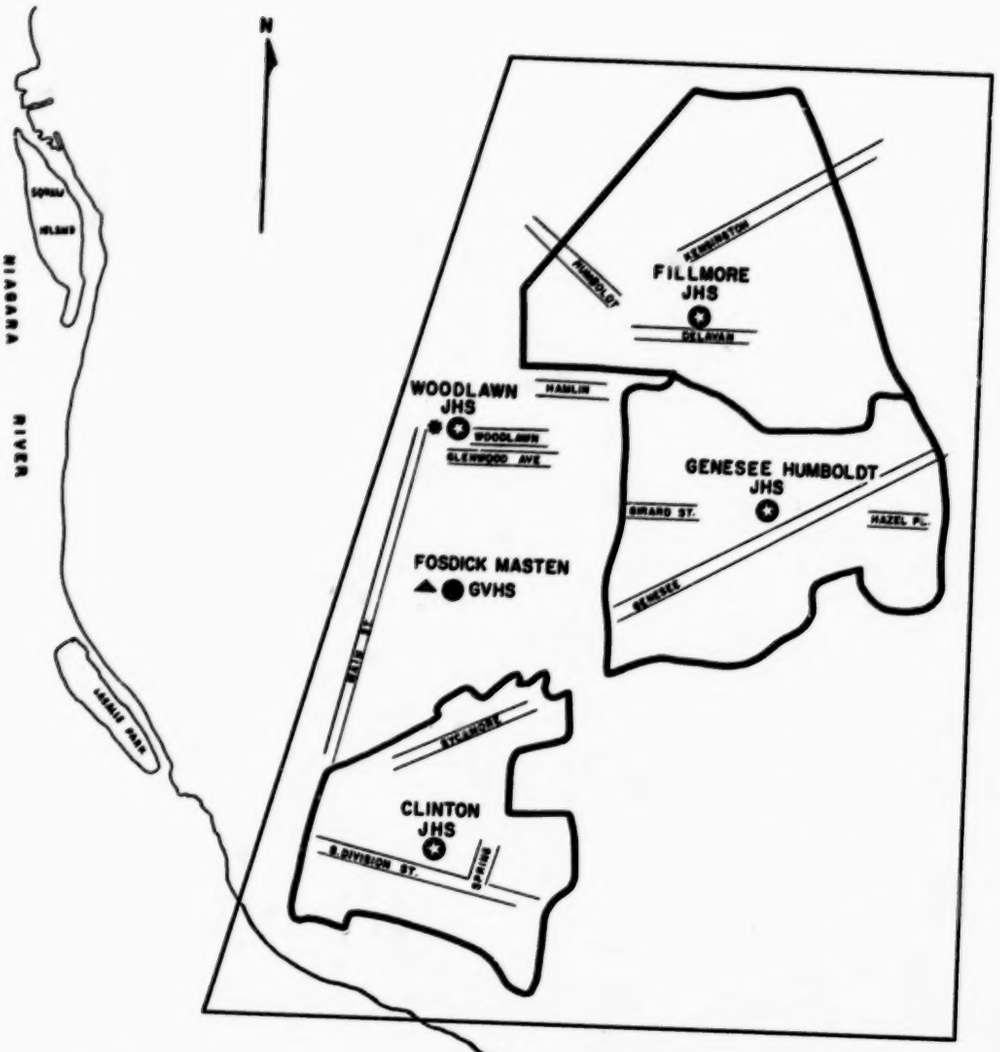
Dr. Lydia T. Wright, another recently appointed school board member, as reported in the Buffalo News, October 22, 1963, proposed that plans to reduce racial imbalance begin in September 1964. She recommended that special efforts to reduce racial imbalance in the school begin with the fourth grade. She stated that in order to achieve this it may be necessary to assign pupils to schools outside their school district, thus opposing the neighborhood school policy.

MAPS


Optional Attendance Areas of Buffalo Elementary Schools in Biracial Residential Areas
September 1962
1960 NEGRO POPULATION BY CENSUS TRACT
OVER 80% NEGRO
50 - 80% NEGRO
30 - 49% NEGRO
5 - 29% NEGRO
LESS THAN 5% NEGROES
N
BUFFALO HARBOR
CITY CEMETARY
OPT
54
56
17
74
93
53
8
16
48
39
37
15
76
47
41
12
73
31
32
75
6
40
DELAWARE AVE
CARLTON
GAYUGA
GIRARD PL
FOX
DETROIT

Buffalo Junior High School Districts

September 1962

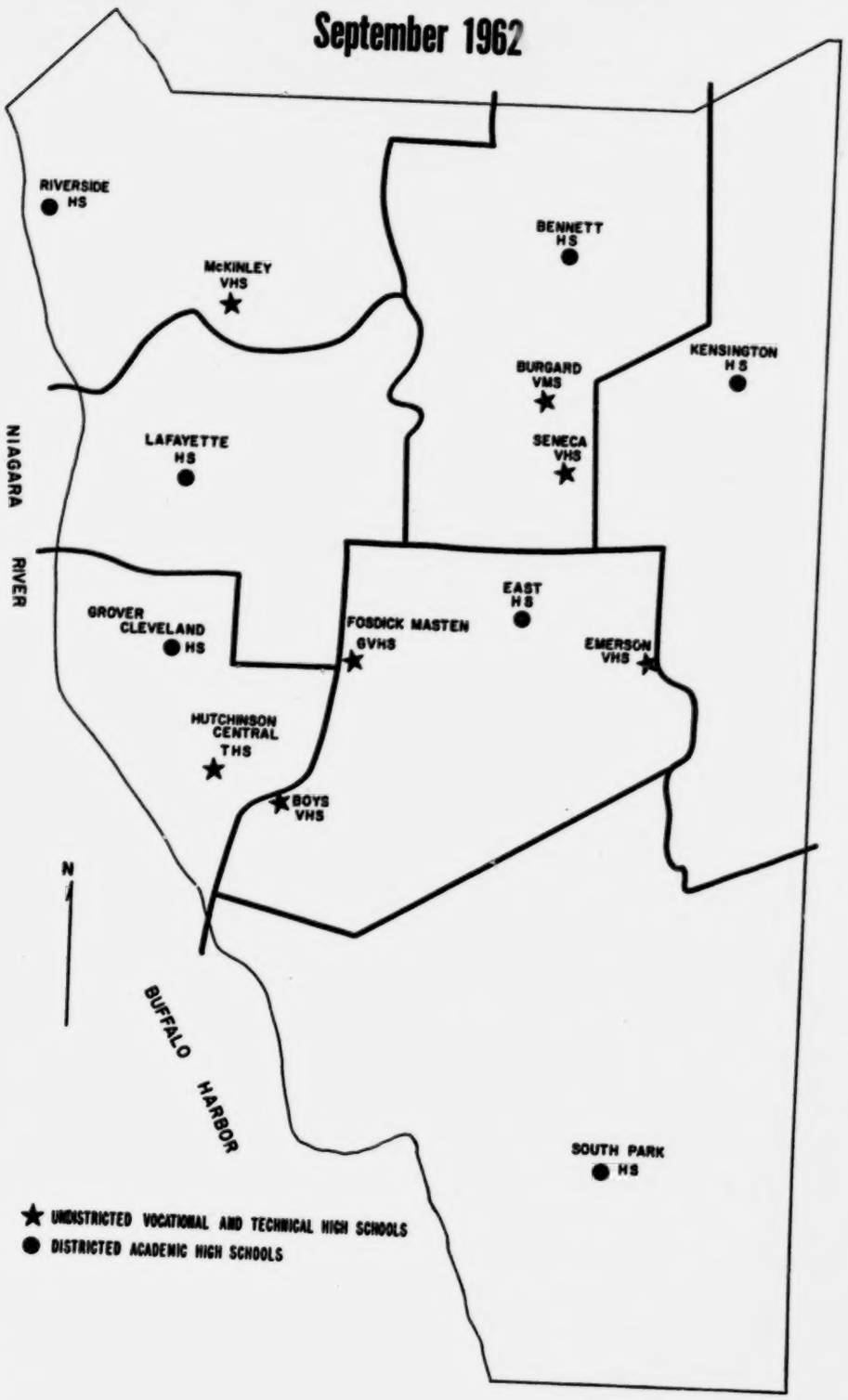


▲ Proposed for conversion to a Junior High School.

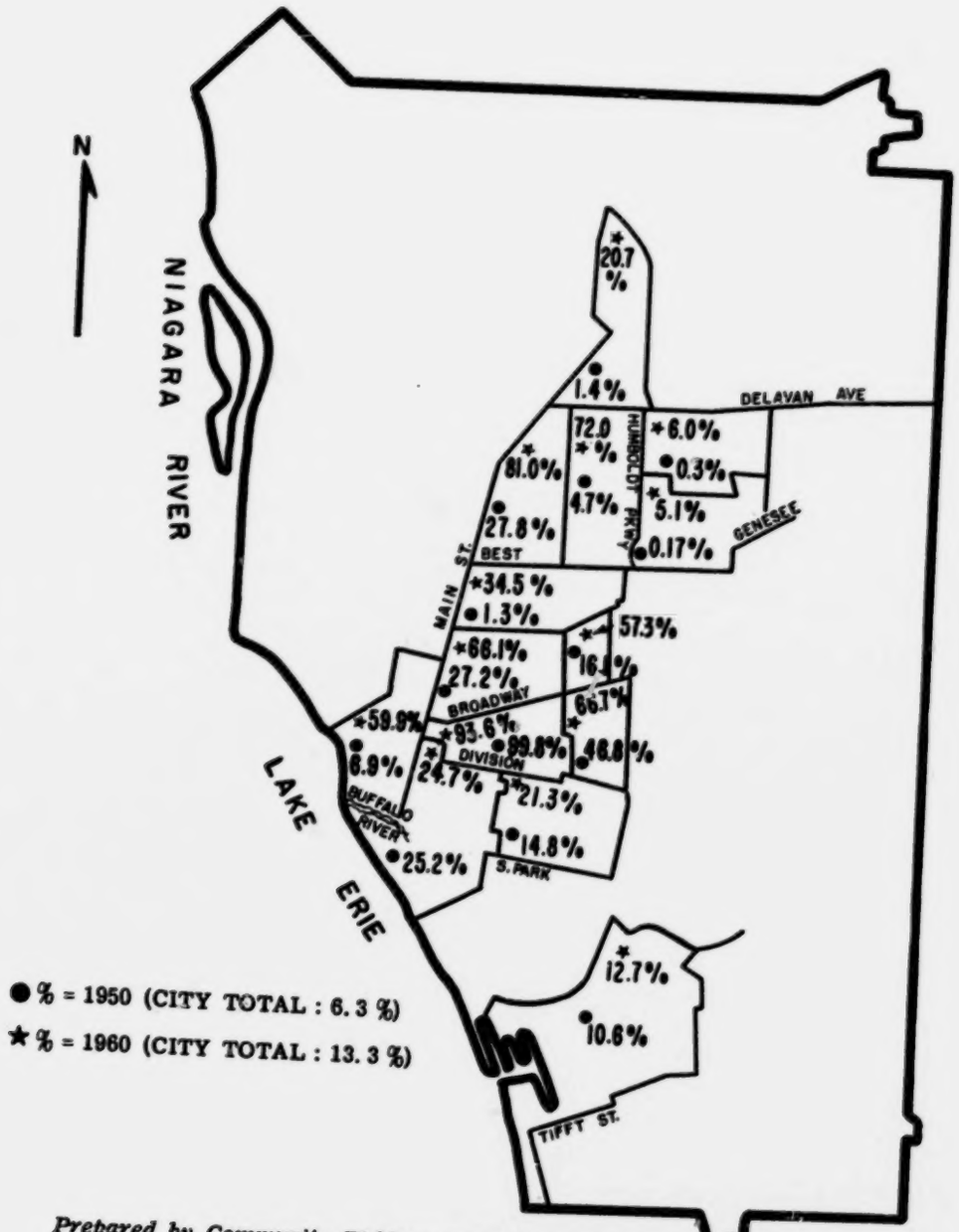
* District to be determined six months prior to school opening - school now under construction.

Buffalo Academic High School Districts

September 1962



Buffalo Census Tracts with 5% or More Negro Population in 1960 and Corresponding Percentage for 1950



Prepared by Community Welfare Council of Buffalo and Erie County.

GSA-WASH DC 64-8211